

Title 43

STATE GOVERNMENT—EXECUTIVE

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Chapter 43.01 RCW

STATE OFFICERS—GENERAL PROVISIONS

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43.01.010 Terms of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall hold office for the term of four years, and until their successors are elected and qualified; and the term shall commence on the Wednesday after the second Monday of January following their election. [1965 c 8 § 43.01.010. Prior: 1891 c 82 § 1; RRS § 10980.]

Term of person elected to fill vacancy: RCW 42.12.030.

Terms of office: State Constitution Art. 3 § 3.

Vacancies in office: Chapter 42.12 RCW.

43.01.020 Oath of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation in substance as follows: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the state of Washington, and that I will faithfully discharge the duties of the office of (name of office) to the best of my ability.

The oath or affirmation shall be administered by one of the justices of the supreme court at the capitol. A certificate shall be affixed thereto by the person administering the oath, and the oath or affirmation so certified shall be filed in the office of the secretary of state before the officer shall be qualified to discharge any official duties: PROVIDED, That the oath of the secretary of state shall be filed in the office of the state auditor. [1965 c 8 § 43.01.020. Prior: 1909 c 43 § 1; RRS § 10981.]

Attorney general, oath of office: RCW 43.10.010.

Commissioner of public lands, oaths of employees: RCW 43.12.021.

Court commissioners, oath of office: RCW 2.24.020.

Engineers and land surveyors' board of registration, oath required: RCW 18.43.030.

Horse racing commission, oath of office: RCW 67.16.012.

Judges of superior court, oath of office: State Constitution Art. 4 § 28; RCW 2.08.080, 2.08.180.

Judges of supreme court, oath of office: State Constitution Art. 4 § 28; RCW 2.04.080.

Liquor and cannabis board, oath of office: RCW 66.08.014.

Militia, oath of office: RCW 38.12.150, 38.12.160.

Oaths, mode of administering: State Constitution Art. 1 § 6.

Perjury, oath defined: RCW 9A.72.010.

State administrative officers, oath required: RCW 43.17.030.

State auditor, oath of office: RCW 43.09.010.

State treasurer, oath of office: RCW 43.08.020.

Subversive activities, oath required of public officers and employees: RCW 9.81.070.

University of Washington, board of regents, oath required: RCW 28B.10.520.

Utilities and transportation commission: RCW 80.01.020.

Washington State University, board of regents: RCW 28B.10.520.

43.01.031 Chapter application—Health benefit exchange. This chapter does not apply to any position in or

employee of the Washington health benefit exchange established in chapter 43.71 RCW. [2012 c 87 § 20.]

Effective date—2012 c 87 §§ 4, 16, 18, and 19-23: See note following RCW 43.71.030.

Spiritual care services—2012 c 87: See RCW 43.71.901.

43.01.035 Reports—Periods to be covered. All biennial reports to the legislature and the governor shall cover the period comprising the first full fiscal year of the then current biennium and the last full fiscal year of the biennium immediately preceding. All annual reports to the governor shall cover the full fiscal year immediately preceding the date of said report. [1965 c 8 § 43.01.035. Prior: 1953 c 184 § 3.]

43.01.036 Reports—Electronic format—Online access. (1)(a) All reports required to be submitted to the legislature shall be provided only in an electronic format. Reports must be submitted electronically to the chief clerk of the house of representatives and the secretary of the senate. The chief clerk of the house of representatives and the secretary of the senate shall provide an online site for reports submitted to the legislature on the legislative internet home page. The reports shall be organized in such a way as to make the reports easy to find and accessible by legislators, staff, and the public.

(b) Upon electronic submittal of the required report to the chief clerk of the house of representatives and the secretary of the senate, the agency shall send a letter, also by electronic means, to the appropriate legislative committee that the report has been filed. The letter may include a brief summary of the report. The public entity submitting the report may make hard copies available by request.

(2)(a) All annual and biennial reports to the governor shall be provided only in an electronic format. The reports shall be organized in such a way as to make the reports easy to find and accessible by the public.

(b) Upon electronic submittal of the required report to the governor's office, the agency shall send a letter, also by electronic means, that the report has been filed. The letter may include a brief summary of the report. The entity submitting the report may make hard copies available by request. [2009 c 518 § 24.]

43.01.040 Vacations—Computation and accrual—Transfer—Statement of necessity required for extension of unused leave. Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than eight hours of vacation leave with full pay for each month of employment.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than eight additional hours of vacation with full pay each year for satisfactorily completing the first two, three, and five continuous years of employment respectively.

Such part-time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full-time employment.

Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under his or her contract of employment with the state government to accrue unused vacation leave not to exceed two hundred forty hours. However, employees of the Washington state ferries covered by collective bargaining agreements containing provisions in effect on June 30, 2017, allowing accrual of unused vacation leave not to exceed three hundred twenty hours shall be allowed to continue the higher accrual limit until such time as those provisions are modified through collective bargaining, or the bargaining unit changes its exclusive representative or is decertified. Officers and employees transferring within the several offices, departments, and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department, or institution. All vacation leave shall be taken at the time convenient to the employing office, department, or institution: PROVIDED, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department, or institution, and a statement of the necessity therefor is retained by the agency, then the aforesaid maximum two hundred forty hours of accrued unused vacation leave shall be extended for each month said leave is so deferred. [2017 c 168 § 1; 2017 c 167 § 1; 2011 1st sp.s. c 43 § 449; 2009 c 549 § 5001; 1984 c 184 § 19; 1982 1st ex.s. c 51 § 2; 1965 ex.s. c 13 § 1; 1965 c 8 § 43.01.040. Prior: 1955 c 140 § 1; 1921 c 7 § 133; RRS § 10891.]

Reviser's note: This section was amended by 2017 c 167 § 1 and by 2017 c 168 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2017 c 168: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2017." [2017 c 168 § 2.]

Effective date—2017 c 167: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2017." [2017 c 167 § 4.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Military leave of absence: RCW 38.40.060.

Additional notes found at www.leg.wa.gov

43.01.041 Accrued vacation leave—Payment upon termination of employment. Officers and employees referred to in RCW 43.01.040 whose employment is terminated by their death, reduction in force, resignation, dismissal, or retirement, who have been employed for at least six continuous months, and who have accrued vacation leave as specified in RCW 43.01.040 or 43.01.044, shall be paid therefor under their contract of employment, or their estate if they are deceased, or if the employee in case of voluntary resignation has provided adequate notice of termination. Vacation leave accumulated under RCW 43.01.044 is not to be included in the computation of retirement benefits. From July 1, 2011, through June 29, 2013, the amount of pay received by an employee under the provisions of this section shall not be reduced by any temporary salary reduction.

Should the legislature revoke any benefits or rights provided under chapter 292, Laws of 1985, no affected officer or

employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right. [2017 c 167 § 3; 2011 1st sp.s. c 39 § 13; 1985 c 292 § 1; 1984 c 184 § 20; 1982 1st ex.s. c 51 § 3; 1965 c 8 § 43.01.041. Prior: 1955 c 140 § 2.]

Effective date—2017 c 167: See note following RCW 43.01.040.

Additional notes found at www.leg.wa.gov

43.01.042 Vacations—State institutions of higher learning. State institutions of higher learning may prescribe such rules and regulations as they may determine governing vacation leave for academic and professional personnel. [1965 c 8 § 43.01.042. Prior: 1955 c 140 § 3.]

43.01.043 Vacations—Rules and regulations. The several offices, departments and institutions of the state government may prescribe supplemental rules and regulations that are not inconsistent with the provisions of RCW 43.01.040 through 43.01.043 with respect to vacation leave of subordinate officers and employees thereof. [1965 c 8 § 43.01.043. Prior: 1955 c 140 § 4.]

43.01.044 Vacations—Accumulation of leave in excess of two hundred forty hours authorized without statement of necessity—Requirements of statement of necessity. As an alternative, in addition to the provisions of RCW 43.01.040 authorizing the accumulation of vacation leave in excess of two hundred forty hours with the filing of a statement of necessity, vacation leave in excess of two hundred forty hours may also be accumulated as provided in this section but without the filing of a statement of necessity. The accumulation of leave under this alternative method shall be governed by the following provisions:

(1) Each subordinate officer and employee of the several offices, departments, and institutions of state government may accumulate the vacation leave hours between the time two hundred forty hours is accrued and his or her anniversary date of state employment.

(2) All vacation hours accumulated under this section shall be used by the anniversary date and at a time convenient to the employing office, department, or institution. If an officer or employee does not use the excess leave by the anniversary date, then such leave shall be automatically extinguished and considered to have never existed.

(3) This section shall not result in any increase in a retirement allowance under any public retirement system in this state.

(4) Should the legislature revoke any benefits or rights provided under this section, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

(5) Vacation leave credit acquired and accumulated under this section shall never, regardless of circumstances, be deferred by the employing office, department, or institution by filing a statement of necessity under the provisions of RCW 43.01.040.

(6) Notwithstanding any other provision of this chapter, on or after July 24, 1983, a statement of necessity for excess leave shall, as [at] a minimum, include the following: (a) The specific number of hours of excess leave; and (b) the date on which it was authorized. A copy of any such authorization

shall be sent to the department of retirement systems. [2017 c 167 § 2; 1983 c 283 § 1.]

Effective date—2017 c 167: See note following RCW 43.01.040.

43.01.045 Vacations—Provisions not applicable to officers and employees of state convention and trade center. The provisions of RCW 43.01.040 through 43.01.044 shall not be applicable to the officers and employees of the nonprofit corporation formed under *chapter 67.40 RCW. [1984 c 210 § 4.]

***Reviser's note:** A majority of chapter 67.40 RCW was repealed by 2010 1st sp.s. c 15 § 14, effective November 30, 2010. RCW 67.40.020 was repealed by 2010 1st sp.s. c 15 § 15, effective December 30, 2010.

Additional notes found at www.leg.wa.gov

43.01.047 Vacations—Provisions not applicable to individual providers, family child care providers, adult family home providers, or language access providers. RCW 43.01.040 through 43.01.044 do not apply to individual providers under RCW *74.39A.220 through 74.39A.300, family child care providers under RCW 41.56.028, or adult family home providers under RCW 41.56.029, or language access providers under RCW 41.56.510. [2010 c 296 § 6; 2007 c 184 § 5; 2006 c 54 § 5; 2004 c 3 § 4.]

***Reviser's note:** RCW 74.39A.220 was repealed by 2018 c 278 § 32.

Additional notes found at www.leg.wa.gov

43.01.050 Daily remittance of moneys to treasury—Undistributed receipts account—Use. Each state officer or other person, other than county treasurer, who is authorized by law to collect or receive moneys which are required by statute to be deposited in the state treasury shall transmit to the state treasurer each day, all such moneys collected by him or her on the preceding day: PROVIDED, That the state treasurer may in his or her discretion grant exceptions where such daily transfers would not be administratively practical or feasible. In the event that remittances are not accompanied by a statement designating source and fund, the state treasurer shall deposit these moneys in an account hereby created in the state treasury to be known as the undistributed receipts account. These moneys shall be retained in the account until such time as the transmitting agency provides a statement in duplicate of the source from which each item of money was derived and the fund into which it is to be transmitted. The director of financial management in accordance with RCW 43.88.160 shall promulgate regulations designed to assure orderly and efficient administration of this account. In the event moneys are deposited in this account that constitute overpayments, refunds may be made by the remitting agency without virtue of a legislative appropriation. [2009 c 549 § 5002; 1985 c 57 § 26; 1981 2nd ex.s. c 4 § 5; 1979 c 151 § 80; 1967 c 212 § 1; 1965 c 8 § 43.01.050. Prior: 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Commissioner of public lands and department of natural resources, deposit of funds: RCW 43.30.325.

State depositaries: Chapter 43.85 RCW.

Additional notes found at www.leg.wa.gov

43.01.060 Daily remittance of moneys to treasury—Treasurer's duty on default. The state treasurer shall inform the governor of any failure on the part of any officer

to comply with the provisions of RCW 43.01.050. [1965 c 8 § 43.01.060. Prior: 1907 c 96 § 2; RRS § 5502.]

43.01.070 Daily remittance of moneys to treasury—Liability of officers for noncompliance. If any officer fails to comply with the provisions of RCW 43.01.050, he or she shall be liable to the state upon his or her official bond in a sum equal to ten percent annual interest on the funds for such time as he or she retained them. [2009 c 549 § 5003; 1965 c 8 § 43.01.070. Prior: 1907 c 96 § 3; RRS § 5503.]

43.01.072 Refund of fees or other payments collected by state. Whenever any law which provides for the collection of fees or other payments by a state agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the state agency which collected the fees or payments of all such amounts received by the state agency in consequence of error, either of fact or of law as to: (1) The proper amount of such fee or payments; (2) The necessity of making or securing a permit, filing, examination or inspection; (3) The sufficiency of the credentials of an applicant; (4) The eligibility of an applicant for any other reason; (5) The necessity for the payment. [1965 c 8 § 43.01.072. Prior: 1955 c 224 § 1.]

Refunds of fees or other payments, budget and accounting system: RCW 43.88.170.

43.01.073 Refund of fees or other payments collected by state—Voucher. Any state agency desiring to authorize such a refund shall file with the state treasurer a voucher naming the payee and giving full particulars as to the reason for the refund and the fund in the treasury to which it was credited. [1965 c 8 § 43.01.073. Prior: 1955 c 224 § 2.]

43.01.074 Refund of fees or other payments collected by state—Warrant. Payment of such refunds shall be by warrant issued by the state treasurer against the fund in the state treasury to which the erroneous or excessive payment was credited or from any other appropriation made for such refund. [1965 c 8 § 43.01.074. Prior: 1955 c 224 § 3.]

Appropriation, when not required for refunds: RCW 43.88.180.

43.01.075 Refund of fees or other payments collected by state—Limitation where amount is two dollars or less. No such refund shall be authorized by a state agency where the amount is two dollars or less unless demand for the refund is made within six months from the date the erroneous or excessive payment was made. [1965 c 8 § 43.01.075. Prior: 1955 c 224 § 4.]

43.01.090 Departments to share occupancy costs—Capital projects surcharge. The director of enterprise services may assess a charge or rent against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportionate share of costs for occupancy of buildings, structures, or facilities including but not limited to all costs of acquiring, constructing, operating, and maintaining such buildings, structures, or facilities and the repair, remodeling, or furnishing thereof and for the rendering of any service or the furnishing or providing of any supplies, equipment, historic furnishings, or materials.

The director of enterprise services may recover the full costs including appropriate overhead charges of the foregoing by periodic billings as determined by the director including but not limited to transfers upon accounts and advancements into the enterprise services account. Charges related to the rendering of real estate services under RCW 43.82.010 and to the operation and maintenance of public and historic facilities at the state capitol, as defined in RCW 79.24.710, shall be allocated separately from other charges assessed under this section. Rates shall be established by the director of enterprise services after consultation with the director of financial management. The director of enterprise services may allot, provide, or furnish any of such facilities, structures, services, equipment, supplies, or materials to any other public service type occupant or user at such rates or charges as are equitable and reasonably reflect the actual costs of the services provided: PROVIDED, HOWEVER, That the legislature, its duly constituted committees, interim committees and other committees shall be exempted from the provisions of this section.

Upon receipt of such bill, each entity, occupant, or user shall cause a warrant or check in the amount thereof to be drawn in favor of the department of enterprise services which shall be deposited in the state treasury to the credit of the enterprise services account unless the director of financial management has authorized another method for payment of costs.

Beginning July 1, 1995, the director of enterprise services shall assess a capital projects surcharge upon each agency or other user occupying a facility owned and managed by the department of enterprise services in Thurston county, excluding state capitol public and historic facilities, as defined in RCW 79.24.710. The capital projects surcharge does not apply to agencies or users that agree to pay all future repairs, improvements, and renovations to the buildings they occupy and a proportional share, as determined by the office of financial management, of all other campus repairs, installations, improvements, and renovations that provide a benefit to the buildings they occupy or that have an agreement with the department of enterprise services that contains a charge for a similar purpose, including but not limited to RCW 43.01.091, in an amount greater than the capital projects surcharge. Beginning July 1, 2002, the capital projects surcharge does not apply to department of services for the blind vendors who operate cafeteria services in facilities owned and managed by the department of enterprise services; the department shall consider this space to be a common area for purposes of allocating the capital projects surcharge to other building tenants beginning July 1, 2003. The director, after consultation with the director of financial management, shall adopt differential capital project surcharge rates to reflect the differences in facility type and quality. The initial payment structure for this surcharge shall be one dollar per square foot per year. The surcharge shall increase over time to an amount that when combined with the facilities and service charge equals the market rate for similar types of lease space in the area or equals five dollars per square foot per year, whichever is less. The capital projects surcharge shall be in addition to other charges assessed under this section. Proceeds from the capital projects surcharge shall be deposited into the Thurston county capital facilities account created in RCW 43.19.501.

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[2015 c 225 § 56; 2005 c 330 § 5; 2002 c 162 § 1; 1998 c 105 § 5; 1994 c 219 § 16; 1991 sp.s. c 31 § 10; 1979 c 151 § 81; 1973 1st ex.s. c 82 § 1; 1971 ex.s. c 159 § 1; 1965 c 8 § 43.01.090. Prior: (i) 1951 c 131 § 1; 1941 c 228 § 1; Rem. Supp. 1941 § 10964-30. (ii) 1951 c 131 § 1; 1941 c 228 § 2; Rem. Supp. 1941 § 10964-31.]

Findings—Purpose—1994 c 219: "The legislature finds that there is inequitable distribution among state programs of capital costs associated with maintaining and rehabilitating state facilities. The legislature finds that there are insufficient available resources to support even minor capital improvements other than debt financing. The legislature further finds that little attention is focused on efficient facility management because in many cases capital costs are not factored into the ongoing process of allocating state resources. The purpose of sections 16 through 18, chapter 219, Laws of 1994 is to create a mechanism to distribute capital costs among the agencies and programs occupying facilities owned and managed by the *department of general administration in Thurston county that will foster increased accountability for facility decisions and more efficient use of the facilities." [1994 c 219 § 15.]

***Reviser's note:** The department of general administration was renamed the department of enterprise services by 2011 1st sp.s. c 43 § 107.

Finding—1994 c 219: See note following RCW 43.88.030.

Agricultural commodity commissions exempt: RCW 15.04.200.

Enterprise services account: RCW 43.19.500.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

Additional notes found at www.leg.wa.gov

43.01.091 Departments to share debt service costs. It is hereby declared to be the policy of the state of Washington that each agency or other occupant of newly constructed or substantially renovated facilities owned and operated by the department of enterprise services in Thurston county shall proportionally share the debt service costs associated with the original construction or substantial renovation of the facility. Beginning July 1, 1995, each state agency or other occupant of a facility constructed or substantially renovated after July 1, 1992, and owned and operated by the department of enterprise services in Thurston county, shall be assessed a charge to pay the principal and interest payments on any bonds or other financial contract issued to finance the construction or renovation or an equivalent charge for similar projects financed by cash sources. In recognition that full payment of debt service costs may be higher than market rates for similar types of facilities or higher than existing agreements for similar charges entered into prior to June 9, 1994, the initial charge may be less than the full cost of principal and interest payments. The charge shall be assessed to all occupants of the facility on a proportional basis based on the amount of occupied space or any unique construction requirements. The office of financial management, in consultation with the department of enterprise services, shall develop procedures to implement this section and report to the legislative fiscal committees, by October 1994, their recommendations for implementing this section. The office of financial management shall separately identify in the budget document all payments and the documentation for determining the payments required by this section for each agency and fund source during the current and the two past and future fiscal biennia. The charge authorized in this section is subject to annual audit by the state auditor. [2015 c 225 § 57; 1994 c 219 § 19.]

Finding—1994 c 219: See note following RCW 43.88.030.

Budget document: RCW 43.88.030.

Enterprise services: RCW 43.19.500.

43.01.100 Application forms—Employment—Licenses—Mention of race or religion prohibited—Penalty. (1) The inclusion of any question relative to an applicant's race or religion in any application blank or form for employment or license required to be filled in and submitted by an applicant to any department, board, commission, officer, agent, or employee of this state or the disclosure on any license of the race or religion of the licensee is hereby prohibited.

(2) A person violating this section is guilty of a misdemeanor. [2003 c 53 § 221; 1965 c 8 § 43.01.100. Prior: 1955 c 87 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Discrimination—Human rights commission: Chapter 49.60 RCW.

Subversive activities, public officials and employees: Chapter 9.81 RCW.

43.01.120 Accidental death and dismemberment coverage during aircraft flights for state officers, employees, and legislators. The departments of state government are authorized to procure at state expense accidental death and dismemberment coverage not to exceed one hundred thousand dollars per person for the benefit of state employees and state elected officials, including legislators, while they are, in the course of their employment, passengers on or crewmembers of any nonscheduled aircraft flight. [1967 ex.s. c 6 § 1; 1965 ex.s. c 68 § 1.]

43.01.125 Duty to identify employees whose performance warrants termination from employment. It is the responsibility of each agency head to institute management procedures designed to identify any agency employee, either supervisory or nonsupervisory, whose performance is so inadequate as to warrant termination from state employment. In addition, it is the responsibility of each agency head to remove from a supervisory position any supervisor within the agency who has tolerated the continued employment of any employee under his or her supervision whose performance has warranted termination from state employment. [1985 c 461 § 15.]

Adoption of rules to remove supervisors tolerating inadequate employees: RCW 41.06.196.

Additional notes found at www.leg.wa.gov

43.01.135 Sexual harassment in the workplace. Agencies as defined in RCW 41.06.020, except for institutions of higher education, shall:

(1) Update or develop and disseminate among all agency employees and contractors a policy that:

(a) Defines and prohibits sexual harassment in the workplace;

(b) Includes procedures that describe how the agency will address concerns of employees who are affected by sexual harassment in the workplace;

(c) Identifies appropriate sanctions and disciplinary actions; and

(d) Complies with guidelines adopted by the director of personnel under RCW 41.06.395;

(2) Respond promptly and effectively to sexual harassment concerns;

(3) Conduct training and education for all employees in order to prevent and eliminate sexual harassment in the organization;

(4) Inform employees of their right to file a complaint with the Washington state human rights commission under chapter 49.60 RCW, or with the federal equal employment opportunity commission under Title VII of the civil rights act of 1964; and

(5) Report to the department of enterprise services on compliance with this section.

The cost of the training programs shall be borne by state agencies within existing resources. [2011 1st sp.s. c 43 § 450; 2007 c 76 § 2.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.01.150 Power to employ or appoint personnel not to include authority to provide state owned or leased motor vehicle. Notwithstanding any other provision of law, whenever any state agency, institution of higher education, or other appointing authority is empowered to employ or appoint administrators or other personnel and to fix their compensation, such power, in the absence of a specific contrary statutory authorization to the agency, institution of higher education, or appointing authority, shall not extend to the power to provide a state owned or leased motor vehicle for any use other than official state business. [1975 1st ex.s. c 33 § 1.]

Providing motor vehicle transportation services for public employees: RCW 43.19.560 through 43.19.635.

43.01.160 State publications to be in gender-neutral terms—Exception—Effect of noncompliance. (1) All rules and directory or advisory publications issued, adopted, or amended by state officers or agencies, as defined by RCW 41.06.020, after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No rule or publication is invalid because it does not comply with this section. [1983 c 20 § 2.]

Intent—1983 c 20: "It is the intent of the legislature to have the state's statutes, rules, and official communications expressed in gender-neutral terms." [1983 c 20 § 1.]

Statutes, memorials, and resolutions: RCW 44.04.210.

43.01.200 Facilitating recovery from Mt. St. Helens eruption—Legislative findings—Purpose. (1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia rivers areas;

(c) There is an immediate need for sites for dredging, dredge spoils, flood control works, sediment retention, and bank protection and funds for dredging, dredge sites, dredge spoils sites, flood control works, sediment retention sites, and bank protection and to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers and failure to cooperate with the federal government in sediment retention would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for worldwide commerce.

(2) The intent of RCW 36.01.150, 43.01.210, *43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500, their 1983 amendments, and RCW 43.01.215 is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section. [1985 c 307 § 1; 1983 1st ex.s. c 1 § 1; 1982 c 7 § 1.]

*Reviser's note: RCW 43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500 expired June 30, 1995.

Additional notes found at www.leg.wa.gov

43.01.210 Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action. State agencies shall take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) The department of transportation may secure any lands or interest in lands by purchase, exchange, lease, eminent domain, or donation for dredge sites, dredge spoils sites, flood control works, sediment retention works, or bank protection;

(2) The commissioner of public lands may by rule declare any public lands found to be damaged by the eruption of Mt. St. Helens, directly or indirectly, as surplus to the needs of the state and may dispose of such lands pursuant to Title 79 RCW to public or private entities for development, park and recreation uses, open space, or fish and wildlife habitat;

(3) All state agencies shall cooperate with local governments, the United States army corps of engineers, and other agencies of the federal government in planning for dredge site selection and dredge spoils removal, and in all other phases of recovery operations;

(4) The department of transportation shall work with the counties concerned on-site selection and site disposition in cooperation with the army corps of engineers; and

(5) State agencies may assist the army corps of engineers in the dredging and dredge spoils deposit operations. [1985 c 307 § 2; 1983 1st ex.s. c 1 § 2; 1982 c 7 § 2.]

Facilitating recovery from Mt. St. Helens eruption—Scope of local government action: RCW 36.01.150.

Additional notes found at www.leg.wa.gov

43.01.215 Facilitating recovery from Mt. St. Helens eruption—Precedence of court proceedings under RCW 43.01.210—Finality of order under RCW 8.04.070—Appeal. (1) Court proceedings necessary to acquire property or property rights for purposes of RCW 43.01.210 take precedence over all other causes, including those expedited under the provisions of RCW 47.52.060, in all courts to the end that the provision of lands for dredge sites, dredge spoils sites, flood control works, or bank protection may be expedited.

(2) An order entered under RCW 8.04.070 relating to the acquisition of land under RCW 43.01.210 is final unless review of the order is taken to the supreme court within five

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days after entry of the order. Such an appeal shall be certified by the trial court to the supreme court. Upon certification, the supreme court shall assign the appeal for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible. [1983 1st ex.s. c 1 § 8.]

Additional notes found at www.leg.wa.gov

43.01.220 Commute trip reduction—Parking revenue—Definitions. The definitions in this section apply throughout this chapter.

(1) "Guaranteed ride home" means an assured ride home for commuters participating in a commute trip reduction program who are not able to use their normal commute mode because of personal emergencies.

(2) "Pledged" means parking revenue designated through any means, including moneys received from the natural resource building, which is used for the debt service payment of bonds issued for parking facilities. [1993 c 394 § 2.]

Finding—Purpose—1993 c 394: "The legislature finds that reducing the number of commute trips to work is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. The legislature intends that state agencies shall assume a leadership role in implementing programs to reduce vehicle miles traveled and single-occupant vehicle commuting, under RCW 70.94.521 through 70.94.551.

The legislature has established and directed an interagency task force to consider mechanisms for funding state agency commute trip reduction programs; and to consider and recommend policies for employee incentives for commuting by other than single-occupant vehicles, and policies for the use of state-owned vehicles.

It is the purpose of this act to provide state agencies with the authority to provide employee incentives, including subsidies for use of high occupancy vehicles to meet commute trip reduction goals, and to remove existing statutory barriers for state agencies to use public funds, including parking revenue, to operate, maintain, lease, or construct parking facilities at state-owned and leased facilities, to reduce parking subsidies, and to support commute trip reduction programs." [1993 c 394 § 1.]

43.01.225 Commute trip reduction—Parking revenue—State vehicle parking account. There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of enterprise services under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking facilities; and

(3) Support agency commute trip reduction programs under RCW 70A.15.4000 through 70A.15.4100. [2021 c 65 § 30; 2011 1st sp.s. c 43 § 253; 1995 c 215 § 2; 1993 c 394 § 5.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.230 Commute trip reduction—Use of public funds. State agencies may, under the internal revenue code rules, use public funds to financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency's commute trip reduction program as required under RCW 70A.15.4000 through 70A.15.4100. This section does not permit any payment for the use of state-owned vehicles for commuter ride sharing. [2021 c 65 § 31; 1995 c 215 § 1; 1993 c 394 § 6.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.235 Commute trip reduction—Higher education institutions—Exemption. All state higher education institutions are exempt from RCW 43.01.225. [1993 c 394 § 7.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.236 Commute trip reduction—Institutions of higher education—Exemption. All institutions of higher education as defined under RCW 28B.10.016 are exempt from the requirements under RCW 43.01.240. [1998 c 344 § 8; 1997 c 273 § 3; 1995 c 215 § 5.]

Intent—Findings—1998 c 344: See note following RCW 28B.10.029.

43.01.240 State agency parking account—Parking rental fees—Employee parking, limitations. (1) There is hereby established an account in the state treasury to be known as the state agency parking account. All parking income collected from the fees imposed by state agencies on parking spaces at state-owned or leased facilities, including the capitol campus, shall be deposited in the state agency parking account. Only the office of financial management may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. No agency may receive an allotment greater than the amount of revenue deposited into the state agency parking account.

(2) An agency may, as an element of the agency's commute trip reduction program to achieve the goals set forth in RCW 70A.15.4020, impose parking rental fees at state-owned and leased properties. These fees will be deposited in the state agency parking account. Each agency shall establish a committee to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. The agency shall solicit representation of the employee population including, but not limited to, management, administrative staff, production workers, and state employee bargaining units. Funds shall be used by agencies to: (a) Support the agencies' commute trip reduction program under RCW 70A.15.4000 through 70A.15.4100; (b) support the agencies' parking program; or (c) support the lease or ownership costs for the agencies' parking facilities.

(3) In order to reduce the state's subsidization of employee parking, after July 1997 agencies shall not enter into leases for employee parking in excess of building code requirements, except as authorized by the director of enter-

prise services. In situations where there are fewer parking spaces than employees at a worksite, parking must be allocated equitably, with no special preference given to managers. [2021 c 65 § 32; 2015 c 225 § 58; 1998 c 245 § 46; 1995 c 215 § 3.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

43.01.250 Electric vehicles—State purchase of power at state office locations—Report. (1) It is in the state's interest and to the benefit of the people of the state to encourage the use of electrical vehicles in order to reduce emissions and provide the public with cleaner air. This section expressly authorizes the purchase of power at state expense to recharge privately and publicly owned plug-in electrical vehicles at state office locations where the vehicles are used for state business, are commute vehicles, or where the vehicles are at the state location for the purpose of conducting business with the state.

(2) The director of the department of enterprise services may report to the governor and the appropriate committees of the legislature, as deemed necessary by the director, on the estimated amount of state-purchased electricity consumed by plug-in electrical vehicles if the director of enterprise services determines that the use has a significant cost to the state, and on the number of plug-in electric vehicles using state office locations. The report may be combined with the report under section 401, chapter 348, Laws of 2007. [2015 c 225 § 59; 2007 c 348 § 206.]

Findings—2007 c 348: See RCW 43.325.005.

43.01.900 Terminated entity—Transfer of assets—Reversion of funds—Contractual rights—Rules and pending business—2010 1st sp.s. c 7. (1) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of enterprise services.

(2) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund.

(3) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct.

(4) All rules and all pending business before any terminated entity shall be continued and acted upon by the entity assuming the responsibilities of the terminated entity. [2015 c 225 § 60; 2010 1st sp.s. c 7 § 140.]

Additional notes found at www.leg.wa.gov

Chapter 43.03 RCW SALARIES AND EXPENSES

Sections

43.03.003	Chapter application—Health benefit exchange.
43.03.010	Salaries of elective state officers.
43.03.011	Salaries of state elected officials of the executive branch.

- 43.03.012 Salaries of judges.
- 43.03.013 Salaries of members of the legislature.
- 43.03.015 Emoluments of office for appointees to office of state legislator.
- 43.03.020 Expenses of lieutenant governor acting as governor.
- 43.03.027 Salaries of public officials—State policy enunciated.
- 43.03.028 Salaries of agency officials—Reports.
- 43.03.030 Increase or reduction of appointees' compensation.
- 43.03.040 Salaries of certain directors and chief executive officers.
- 43.03.049 Restrictions on subsistence, lodging, or travel—Exceptions.
- 43.03.050 Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees.
- 43.03.060 Mileage allowance.
- 43.03.062 State convention and trade center employees—Travel expenses.
- 43.03.065 Subsistence and lodging expenses—Direct payment to suppliers authorized.
- 43.03.110 Moving expenses of employees.
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- 43.03.150 Advance payment of travel expenses—Authorized.
- 43.03.160 Advance payment of travel expenses—"Department" defined.
- 43.03.170 Advance payment of travel expenses—Advance warrants—Issuance—Limitations.
- 43.03.180 Advance payment of travel expenses—Itemized travel expense voucher to be submitted—Repayment of unexpended portion of advance—Default.
- 43.03.190 Advance payment of travel expenses—Lien against and right to withhold funds payable until proper accounting or repaying of advance made.
- 43.03.200 Advance payment of travel expenses—Advances construed.
- 43.03.210 Advance payment of travel expenses—Director of financial management to prescribe rules and regulations to carry out RCW 43.03.150 through 43.03.210.
- 43.03.220 Compensation of members of part-time boards and commissions—Class one groups.
- 43.03.230 Compensation of members of part-time boards and commissions—Class two groups (*as amended by 2011 c 5*).
- 43.03.230 Compensation of members of part-time boards and commissions—Class two groups (*as amended by 2011 1st sp.s. c 21*).
- 43.03.240 Compensation of members of part-time boards and commissions—Class three groups (*as amended by 2011 c 5*).
- 43.03.240 Compensation of members of part-time boards and commissions—Class three groups (*as amended by 2011 1st sp.s. c 21*).
- 43.03.250 Compensation of members of part-time boards and commissions—Class four groups (*as amended by 2011 c 5*).
- 43.03.250 Compensation of members of part-time boards and commissions—Class four groups (*as amended by 2011 1st sp.s. c 21*).
- 43.03.265 Compensation of members of part-time boards and commissions—Class five groups (*as amended by 2011 c 5*).
- 43.03.265 Compensation of members of part-time boards and commissions—Class five groups (*as amended by 2011 1st sp.s. c 21*).
- 43.03.270 Guidelines for providing stipends and allowances to class one group members.
- 43.03.2705 Reports on stipends and allowances to class one group members.
- 43.03.300 Salaries of elected state officials—Legislative declaration—Purpose.
- 43.03.305 Washington citizens' commission on salaries for elected officials—Generally (*as amended by 2011 c 60*).
- 43.03.305 Washington citizens' commission on salaries for elected officials—Generally (*as amended by 2011 c 254*).
- 43.03.3051 Elected officials—Voluntary salary reduction.
- 43.03.310 Duties of citizens' commission—Travel expenses—Chair—Schedule of salaries—Publication—Hearings.

Compensation for unofficial services permitted: RCW 42.04.070.
Compensation not to be changed during term: State Constitution Art. 2 § 25, Art. 3 § 25, Art. 28 § 1.
Free transportation prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.
Salaries of state officers, payable semimonthly: RCW 42.16.010.

43.03.003 Chapter application—Health benefit exchange. This chapter does not apply to any position in or (2022 Ed.)

employee of the Washington health benefit exchange established in chapter 43.71 RCW. [2012 c 87 § 21.]

Effective date—2012 c 87 §§ 4, 16, 18, and 19-23: See note following RCW 43.71.030.

Spiritual care services—2012 c 87: See RCW 43.71.901.

43.03.010 Salaries of elective state officers. The annual salaries of the following named state elected officials shall be prescribed by the Washington citizens' commission on salaries for elected officials: Governor; lieutenant governor: PROVIDED, That in arriving at the annual salary of the lieutenant governor the commission shall prescribe a fixed amount plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state; state treasurer; state auditor; attorney general; superintendent of public instruction; commissioner of public lands; and state insurance commissioner. Members of the legislature shall receive for their service per annum the amount prescribed by the Washington citizens' commission on salaries for elected officials; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060. [1989 c 10 § 8. Prior: 1986 c 161 § 1; 1986 c 155 § 8; 1983 1st ex.s. c 29 § 3; 1979 ex.s. c 255 § 1; 1977 ex.s. c 318 § 1; 1975-'76 2nd ex.s. c 113 § 1; 1975 1st ex.s. c 263 § 1; 1974 ex.s. c 149 § 2 (Initiative Measure No. 282, approved November 6, 1973); 1967 ex.s. c 100 § 1; 1965 ex.s. c 127 § 4; 1965 c 8 § 43.03.010; prior: 1965 c 1 § 2; 1961 c 5 § 1; 1959 c 316 § 1; 1949 c 48 § 1; Rem. Supp. 1949 § 10965-1; prior: 1947 c 79 § .02.04; 1945 c 116 § 1; 1939 c 226 § 1; 1925 ex.s. c 163 § 1; 1925 ex.s. c 90 § 1; 1919 c 124 §§ 1, 2; 1907 c 94 § 1.]

Salaries of elected officials: State Constitution Art. 28 § 1.
Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

Additional notes found at www.leg.wa.gov

43.03.011 Salaries of state elected officials of the executive branch. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

- (1) Effective July 1, 2020:
 - (a) Governor \$187,353
 - (b) Lieutenant governor \$117,300
 - (c) Secretary of state \$134,640
 - (d) Treasurer \$153,615
 - (e) Auditor. \$132,212
 - (f) Attorney general. \$172,259
 - (g) Superintendent of public instruction \$153,000
 - (h) Commissioner of public lands. \$153,000
 - (i) Insurance commissioner. \$137,700
- (2) Effective July 1, 2021:
 - (a) Governor \$187,353
 - (b) Lieutenant governor \$117,300
 - (c) Secretary of state \$134,640
 - (d) Treasurer \$153,615
 - (e) Auditor. \$132,212

- (f) Attorney general. \$172,259
- (g) Superintendent of public instruction \$153,000
- (h) Commissioner of public lands. \$153,000
- (i) Insurance commissioner. \$137,700

(3) Effective July 1, 2022:

- (a) Governor \$190,632
- (b) Lieutenant governor \$119,353
- (c) Secretary of state \$136,996
- (d) Treasurer \$156,303
- (e) Auditor. \$134,526
- (f) Attorney general. \$175,274
- (g) Superintendent of public instruction \$155,678
- (h) Commissioner of public lands. \$155,678
- (i) Insurance commissioner. \$140,110

(4) The lieutenant governor shall receive the fixed amount of his or her salary plus 1/260th of the difference between his or her salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor. [2021 c 1 § 1; 2019 c 5 § 1; 2017 1st sp.s. c 1 § 1; 2015 1st sp.s. c 1 § 1; 2013 c 340 § 1; 2011 c 380 § 1; 2009 c 581 § 1; 2009 c 549 § 5004; 2007 c 524 § 1; 2005 c 519 § 1; 2003 1st sp.s. c 1 § 1; 2001 1st sp.s. c 3 § 1; 1999 sp.s. c 3 § 1; 1997 c 458 § 1; 1995 2nd sp.s. c 1 § 1; 1993 sp.s. c 26 § 1; 1991 sp.s. c 1 § 1; 1989 2nd ex.s. c 4 § 1; 1987 1st ex.s. c 1 § 1, part.]

43.03.012 Salaries of judges. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

- (1) Effective July 1, 2020:
 - (a) Chief justice of the supreme court. \$223,499
 - (b) Justices of the supreme court \$220,320
 - (c) Judges of the court of appeals \$209,730
 - (d) Judges of the superior court \$199,675
 - (e) Full-time judges of the district court. \$190,120
- (2) Effective July 1, 2021:
 - (a) Chief justice of the supreme court. \$223,499
 - (b) Justices of the supreme court \$220,320
 - (c) Judges of the court of appeals \$209,730
 - (d) Judges of the superior court \$199,675
 - (e) Full-time judges of the district court. \$190,120
- (3) Effective July 1, 2022:
 - (a) Chief justice of the supreme court. \$227,410
 - (b) Justices of the supreme court \$224,176
 - (c) Judges of the court of appeals \$213,400
 - (d) Judges of the superior court \$203,169
 - (e) Full-time judges of the district court. \$193,447

(4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge. [2021 c 1 § 2; 2019 c 5 § 2; 2017 1st sp.s. c 1 § 2; 2015 1st sp.s. c 1 § 2; 2013 c 340 § 2; 2011 c 380 § 2; 2009 c 581 § 2; 2007 c 524 § 2; 2005 c 519 § 2; 2003 1st sp.s. c 1 § 2; 2001 1st sp.s. c 3 § 2; 1999 sp.s. c 3 § 2; 1997 c 458 § 2; 1995 2nd sp.s. c 1 § 2; 1993 sp.s. c 26 § 2; 1991 sp.s. c 1 § 2; 1989 2nd ex.s. c 4 § 2; 1987 1st ex.s. c 1 § 1, part.]

43.03.013 Salaries of members of the legislature. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

- (1) Effective July 1, 2020:
 - (a) Legislators \$56,881
 - (b) Speaker of the house \$64,881
 - (c) Senate majority leader. \$64,881
 - (d) House minority leader. \$60,881
 - (e) Senate minority leader. \$60,881
- (2) Effective July 1, 2021:
 - (a) Legislators \$56,881
 - (b) Speaker of the house \$64,881
 - (c) Senate majority leader. \$64,881
 - (d) House minority leader. \$60,881
 - (e) Senate minority leader. \$60,881
- (3) Effective July 1, 2022:
 - (a) Legislators \$57,876
 - (b) Speaker of the house \$66,016
 - (c) Senate majority leader. \$66,016
 - (d) House minority leader. \$61,946
 - (e) Senate minority leader. \$61,946

[2021 c 1 § 3; 2019 c 5 § 3; 2017 1st sp.s. c 1 § 3; 2015 1st sp.s. c 1 § 3; 2013 c 340 § 3; 2011 c 380 § 3; 2009 c 581 § 3; 2007 c 524 § 3; 2005 c 519 § 3; 2003 1st sp.s. c 1 § 3; 2001 1st sp.s. c 3 § 3; 1999 sp.s. c 3 § 3; 1997 c 458 § 3; 1995 2nd sp.s. c 1 § 3; 1993 sp.s. c 26 § 3; 1991 sp.s. c 1 § 3; 1989 2nd ex.s. c 4 § 3; 1987 1st ex.s. c 1 § 1, part.]

43.03.015 Emoluments of office for appointees to office of state legislator. Any person appointed to fill a vacancy that may occur in either the senate or house of representatives of the state legislature, prior to his or her qualification at the next succeeding regular or special session of the legislature shall be entitled to the same emoluments of office as the duly elected member whom he or she succeeded. [2009 c 549 § 5005; 1967 ex.s. c 100 § 2.]

Eligibility of member of legislature to appointment or election to office of official whose salary was increased during legislator's term: RCW 3.58.010.

43.03.020 Expenses of lieutenant governor acting as governor. Whenever by reason of the absence from the state or the disability of the governor, the lieutenant governor is called upon temporarily to perform the duties of the office of governor, he or she shall be paid upon his or her personal voucher therefor the sum of ten dollars per day for expenses. [2009 c 549 § 5006; 1965 c 8 § 43.03.020. Prior: 1919 c 118 § 1; RRS § 10979.]

43.03.027 Salaries of public officials—State policy enunciated. It is hereby declared to be the public policy of this state to base the salaries of public officials on realistic standards in order that such officials may be paid according to the true value of their services and the best qualified citizens may be attracted to public service. It is the purpose of this section and RCW 43.03.040 to effectuate this policy by utilizing the expert knowledge of citizens having access to pertinent facts concerning proper salaries for public officials, thus removing and dispelling any thought of political consid-

eration in fixing the appropriateness of the amount of such salaries. [2010 1st sp.s. c 7 § 1; 1970 ex.s. c 43 § 1.]

Additional notes found at www.leg.wa.gov

43.03.028 Salaries of agency officials—Reports. (1)

The office of financial management shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the eastern Washington historical society; the Washington state historical society; the recreation and conservation office; the criminal justice training commission; the traffic safety commission; the horse racing commission; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer firefighters and reserve officers; the transportation improvement board; the public employment relations commission; and the energy facilities site evaluation council.

(2) The office of financial management shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position. [2011 1st sp.s. c 43 § 451; 2010 1st sp.s. c 7 § 2; 2007 c 241 § 3; 2001 c 302 § 2; 1995 c 67 § 1. Prior: 1993 c 281 § 45; 1993 c 101 § 14; 1991 c 3 § 294; 1988 c 167 § 9; prior: 1987 c 504 § 15; 1987 c 249 § 7; 1986 c 155 § 9; 1982 c 163 § 21; 1980 c 87 § 20; prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—1993 c 101: See note following RCW 27.34.010.

Additional notes found at www.leg.wa.gov

43.03.030 Increase or reduction of appointees' compensation. (1)

Wherever the compensation of any appointive state officer or employee is fixed by statute, it may be hereafter increased or decreased in the manner provided by law for the fixing of compensation of other appointive state officers or employees; but this subsection shall not apply to the heads of state departments.

(2) Wherever the compensation of any state officer appointed by the governor, or of any employee in any office or department under the control of any such officer, is fixed by statute, such compensation may hereafter, from time to time, be changed by the governor, and he or she shall have power to fix such compensation at any amount not to exceed the amount fixed by statute.

(3) From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any position

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under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources;

(b) The salary increase will not adversely impact the provision of client services; and

(c) For any state agency of the executive branch, not including institutions of higher education, the salary increase is approved by the director of the office of financial management.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position exempt under this section shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases.

From July 1, 2011, through June 29, 2013, salaries for all positions under this section are subject to RCW 41.04.820. [2011 1st sp.s. c 39 § 7; 2010 c 1 § 4; 2009 c 549 § 5007; 2009 c 5 § 4; 1965 c 8 § 43.03.030. Prior: (i) 1921 c 49 § 1; RRS § 10896. (ii) 1933 c 47 § 1; RRS § 10976-1.]

Additional notes found at www.leg.wa.gov

43.03.040 Salaries of certain directors and chief executive officers.

Subject to RCW 41.04.820, the directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(1) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, and, unless set according to RCW 41.26.717(1), in an amount not to exceed the recommendations of the office of financial management. From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(1) The salary increase can be paid within existing resources;

(2) The salary increase will not adversely impact the provision of client services; and

(3) For any state agency of the executive branch, not including institutions of higher education, the salary increase is approved by the director of the office of financial management.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for

which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position under this section shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases. [2018 c 272 § 1; 2015 3rd sp.s. c 1 § 319; 2011 1st sp.s. c 39 § 8. Prior: 2010 1st sp.s. c 7 § 5; 2010 c 1 § 5; 2009 c 5 § 5; 1993 sp.s. c 24 § 914; 1986 c 155 § 12; 1977 ex.s. c 127 § 2; 1970 ex.s. c 43 § 3; 1965 c 8 § 43.03.040; prior: 1961 c 307 § 2; 1955 c 340 § 2; 1949 c 111 § 1; 1937 c 224 § 1; Rem. Supp. 1949 § 10776-1.]

Additional notes found at www.leg.wa.gov

43.03.049 Restrictions on subsistence, lodging, or travel—Exceptions. Exceptions to restrictions on subsistence, lodging, or travel expenses under this chapter may be granted for the critically necessary work of an agency. For boards, commissions, councils, committees, or similar groups in agencies of the executive branch, the exceptions are subject to approval by the agency head or authorized designee. For boards, commissions, councils, committees, or similar groups in the executive branch under the purview of a separately elected official, president of an institution of higher education, chair, or executive director, the exceptions are subject to approval of the separately elected official, president of the institution of higher education, chair, or executive director. For agencies of the judicial branch, the exceptions shall be subject to approval of the chief justice of the supreme court. For the house of representatives and the senate, the exceptions shall be subject to the approval of the chief clerk of the house of representatives and the secretary of the senate, respectively, under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives. For other legislative agencies, the exceptions shall be subject to approval of both the chief clerk of the house of representatives and the secretary of the senate under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives. [2019 c 147 § 2; 2011 1st sp.s. c 21 § 63.]

Additional notes found at www.leg.wa.gov

43.03.050 Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees. (1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed

the rates set by the federal government for federal employees. However, during the 2003-05 fiscal biennium, the allowances for any county that is part of a metropolitan statistical area, the largest city of which is in another state, shall equal the allowances prescribed for that larger city.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary child and adult care expenses incurred by eligible members of a class one board, commission, council, committee, or similar group, who are authorized under RCW 43.03.220 to receive such allowances, while attending an official meeting or performing statutorily prescribed duties approved by the chairperson of the group.

(6) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

(7) No person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund, unless authorized under RCW 43.03.220 or granted an exception under RCW 43.03.049. [2022 c 245 § 5; 2011 1st sp.s. c 21 § 61; 2010 1st sp.s. c 7 § 141; 2003 1st sp.s. c 25 § 915; 1990 c 30 § 1; 1983 1st ex.s. c 29 § 1; 1979 c 151 § 83; 1977 ex.s. c 312 § 1; 1975-'76 2nd ex.s. c 34 § 94; 1970 ex.s. c 34 § 1; 1965 ex.s. c 77 § 1; 1965 c 8 § 43.03.050. Prior: 1961 c 220 § 1; 1959 c 194 § 1; 1953 c 259 § 1; 1949 c 17 § 1; 1943 c 86 § 1; Rem. Supp. 1949 § 10981-1.]

Findings—2022 c 245: See note following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.03.060 Mileage allowance. (1) Whenever it becomes necessary for elective or appointive officials or employees of the state to travel away from their designated posts of duty while engaged on official business, and it is found to be more advantageous or economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous or economical to the state.

(3) The mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

(4) No person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund, unless authorized under RCW 43.03.220 or granted an exception under RCW 43.03.049. [2022 c 245 § 6; 2011 1st sp.s. c 21 § 62; 1990 c 30 § 2; 1983 1st ex.s. c 29 § 2; 1979 c 151 § 84; 1977 ex.s. c 312 § 2; 1975-'76 2nd ex.s. c 34 § 95; 1974 ex.s. c 157 § 1; 1967 ex.s. c 16 § 4; 1965 c 8 § 43.03.060. Prior: 1949 c 17 § 2; 1943 c 86 § 2; Rem. Supp. 1949 § 10981-2.]

Findings—2022 c 245: See note following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.03.062 State convention and trade center employees—Travel expenses. Notwithstanding any provision of this chapter, employees of the corporation formed under *RCW 67.40.020 shall be reimbursed for actual and reasonable travel and subsistence expenses incurred out of state for the purpose of marketing the convention center as may be requested or performed by the chief executive officer of the corporation subject to approval of the office of financial management. Reimbursement under this section may not be for promotional hosting expenditures. [1985 c 233 § 4.]

*Reviser's note: RCW 67.40.020 was repealed by 2010 1st sp.s. c 15 § 15, effective December 30, 2010.

43.03.065 Subsistence and lodging expenses—Direct payment to suppliers authorized. The allowances prescribed pursuant to RCW 43.03.050 as now or hereafter amended may be paid as reimbursements to individuals for subsistence and lodging expenses during official travel.

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Alternatively, amounts not exceeding those allowances may be paid directly to appropriate suppliers of subsistence and lodging, when more economical and advantageous to the state, under general rules and regulations adopted by the director of financial management with the advice of the state auditor. Payments to suppliers for subsistence and lodging expenses of individuals in travel status shall not result in a cost to the state in excess of what would be payable by way of reimbursements to the individuals involved. [1979 c 151 § 85; 1977 ex.s. c 312 § 4.]

Additional notes found at www.leg.wa.gov

43.03.110 Moving expenses of employees. Whenever it is reasonably necessary to the successful performance of the required duty of a state office, commission, department or institution to transfer a deputy or other employee from one station to another within the state, thereby necessitating a change of such deputy's or employee's domicile, it shall be lawful for such office, commission, department or institution to move such deputy's or employee's household goods and effects to the new station at the expense of the state, or to defray the actual cost of such removal by common carrier, or otherwise, at the expense of the state, in which latter event reimbursement to the deputy or employee shall be upon voucher submitted by him or her and approved by the department head. [2009 c 549 § 5008; 1967 ex.s. c 16 § 1; 1965 c 8 § 43.03.110. Prior: 1943 c 128 § 1; Rem. Supp. 1943 § 9948-1.]

43.03.120 Moving expenses of new employees. Any state office, commission, department or institution may also pay the moving expenses of a new employee, necessitated by his or her acceptance of state employment, pursuant to mutual agreement with such employee in advance of his or her employment. Payment for all expenses authorized by RCW 43.03.060, 43.03.110 through 43.03.210 including moving expenses of new employees, exempt or classified, and others, shall be subject to reasonable rules adopted by the director of financial management, including regulations defining allowable moving costs: PROVIDED, That, if the new employee terminates or causes termination of his or her employment with the state within one year of the date of employment, the state shall be entitled to reimbursement for the moving costs which have been paid and may withhold such sum as necessary therefor from any amounts due the employee. [2011 1st sp.s. c 43 § 452; 2009 c 549 § 5009; 1979 c 151 § 86; 1967 ex.s. c 16 § 2.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.03.125 Relocation compensation for domiciliary moves. An agency may, within existing resources, authorize lump sum relocation compensation when it determines it is necessary to successfully recruit and retain qualified candidates who will have to make a domiciliary move in order to accept the position. It is lawful for a state office, commission, department, or institution to, within existing resources, authorize lump sum relocation compensation as authorized by rule under chapter 41.06 RCW and in accordance with the provisions of chapter 43.88 RCW. If the person receiving the relocation payment terminates or causes termination with the

state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation. [1999 c 297 § 2.]

Findings—1999 c 297: "The legislature finds that recruiting and retaining a highly qualified workforce is essential to deliver high quality public programs. One factor that impairs recruitment or transfer of public employees is the housing cost differential between the rural and urban areas of the state. This housing cost differential can cause state employees to decline promotional or transfer opportunities if the costs associated with such moves are not compensated.

Therefore, the legislature finds that it is in the interest of the citizens of the state of Washington to authorize an employing agency to offer assistance to state employees to relocate from one part of the state to another. This assistance is referred to as relocation compensation and is commonplace with private and federal government employers." [1999 c 297 § 1.]

43.03.130 Travel expenses of prospective employees.

Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency. Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of the state investment board, such travel expenses may also be paid for applicants being considered for investment officer positions. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for applicants being considered for full-time faculty positions or administrative employees in supervisory positions. [2011 1st sp.s. c 43 § 453; 2000 c 153 § 1; 1993 c 93 § 1; 1975-'76 2nd ex.s. c 34 § 96; 1967 ex.s. c 16 § 3.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.03.150 Advance payment of travel expenses—Authorized. Whenever it becomes necessary for an elective or appointive official or employee of the state to travel and to incur expenses for which reimbursement may be made, it shall be the policy of the state to make reasonable allowances to such officers and employees in advance of expenditure, on request of such officer or employee, under appropriate rules and regulations prescribed by the director of financial management. [1979 c 151 § 87; 1967 ex.s. c 16 § 6.]

43.03.160 Advance payment of travel expenses—"Department" defined. "Department", as used herein, shall mean every department, office, agency or institution of state government. [1967 ex.s. c 16 § 7.]

43.03.170 Advance payment of travel expenses—Advance warrants—Issuance—Limitations. The head of any state department may issue an advance warrant on the request of any officer or employee for the purpose of defraying his or her anticipated reimbursable expenses while traveling on business of such state department away from his or her designated post of duty, except expenses in connection with the use of a personal automobile. The amount of such advance shall not exceed the amount of such reasonably anticipated expenses of the officer or employee to be necessarily incurred in the course of such business of the state for a period of not to exceed ninety days. Department heads shall establish written policies prescribing a reasonable amount for which such warrants may be written. [2009 c 549 § 5010; 1979 ex.s. c 71 § 1; 1967 ex.s. c 16 § 8.]

43.03.180 Advance payment of travel expenses—Itemized travel expense voucher to be submitted—Repayment of unexpended portion of advance—Default. On or before the tenth day following each month in which such advance was furnished to the officer or employee, he or she shall submit to the head of his or her department a fully itemized travel expense voucher fully justifying the expenditure of such advance or whatever part thereof has been expended, for legally reimbursable items on behalf of the state. Any unexpended portion of such advance shall be returned to the agency at the close of the authorized travel period. Payment shall accompany such itemized voucher at the close of the travel period; and may be made by check or similar instrument payable to the department. Any default in accounting for or repaying an advance shall render the full amount which is unpaid immediately due and payable with interest at the rate of ten percent per annum from the date of default until paid. [2009 c 549 § 5011; 1967 ex.s. c 16 § 9.]

43.03.190 Advance payment of travel expenses—Lien against and right to withhold funds payable until proper accounting or repaying of advance made. To protect the state from any losses on account of advances made as provided in RCW 43.03.150 through 43.03.210, the state shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the state to such officer or employee to whom such advance has been given as provided in RCW 43.03.150 through 43.03.210, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made. [1979 ex.s. c 71 § 2; 1967 ex.s. c 16 § 10.]

43.03.200 Advance payment of travel expenses—Advances construed. An advance made under RCW 43.03.150 through 43.03.210 shall be considered as having been made to such officer or employee to be expended by him or her as an agent of the state for state purposes only, and specifically to defray necessary costs while performing his or her official duties. No such advance shall be considered for any purpose as a loan to such officer or employee, and any

unauthorized expenditure of such funds shall be considered a misappropriation of state funds by a custodian of such funds. [2009 c 549 § 5012; 1967 ex.s. c 16 § 11.]

43.03.210 Advance payment of travel expenses—Director of financial management to prescribe rules and regulations to carry out RCW 43.03.150 through 43.03.210. The director of financial management may prescribe rules and regulations to assist in carrying out the purposes of RCW 43.03.150 through 43.03.210 including regulation of travel by officers and employees and the conditions under which per diem and mileage shall be paid, so as to improve efficiency and conserve funds and to insure proper use and accountability of travel advances strictly in the public interest and for public purposes only. [1979 c 151 § 88; 1967 ex.s. c 16 § 12.]

43.03.220 Compensation of members of part-time boards and commissions—Class one groups. (1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group. Unless otherwise identified in law, all newly formed and existing groups are a class one group.

(2) Absent any other provision of law to the contrary, a stipend may be provided to a member of a class one group in accordance with this subsection.

(a) Subject to available funding, an agency may provide a stipend to individuals who are low income or have lived experience to support their participation in class one groups when the agency determines such participation is desirable in order to implement the principles of equity described in RCW 43.06D.020, provided that the individuals are not otherwise compensated for their attendance at meetings.

(b) Stipends shall not exceed \$200 for each day during which the member attends an official meeting or performs statutorily prescribed duties approved by the chairperson of the group.

(c) Individuals eligible for stipends under this section are eligible for reasonable allowances for child and adult care reimbursement, lodging, and travel expenses as provided in RCW 43.03.050 and 43.03.060 in addition to stipend amounts.

(d) Nothing in this subsection creates an employment relationship, or any membership or qualification in any state or other publicly supported retirement system, for this or any other title due to the payment of a stipend, lodging and travel expenses, or child care expenses provided under this section where such a relationship, membership, or qualification did not already exist.

(e) As allowable by federal and state law, state agencies will minimize, to the greatest extent possible, the impact of stipends and reimbursements on public assistance eligibility and benefit amounts.

(3) Except for members who qualify for a stipend under subsection (2) of this section, no person designated as a member of a class one board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by

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the state general fund. Exceptions may be granted under RCW 43.03.049. Class one groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law.

(4) Class one groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

(5) Agencies exercising their authority to provide stipends and allowances under this section must follow the guidelines established by the office of equity pursuant to RCW 43.03.270.

(6) For purposes of this section:

(a) "Lived experience" means direct personal experience in the subject matter being addressed by the board, commission, council, committee, or other similar group.

(b) "Low income" means an individual whose income is not more than 400 percent of the federal poverty level, adjusted for family size. [2022 c 245 § 2. Prior: 2011 1st sp.s. c 21 § 55; 2011 c 5 § 902; 2010 1st sp.s. c 7 § 142; 1984 c 287 § 2.]

Findings—2022 c 245: "The legislature finds that equitable public policy discussions should include individuals directly impacted by that policy. In order to do so, the legislature supports removing barriers to that participation. The legislature finds that asking community members with lower financial means to volunteer their time and expertise while state employees and representatives of advocacy organizations receive compensation from their respective agency or organization for their time and experience ultimately hinders full and open public participation. As a result, the legislature finds that removing financial barriers for those individuals fosters increased access to government and enriches public policy discussions and decisions, ultimately leading to more equitable and sustainable policy outcomes." [2022 c 245 § 1.]

Legislative findings—1984 c 287: "The legislature finds that members of part-time boards, commissions, councils, committees, and other similar groups established by the executive, legislative, or judicial branches of state government make a valuable contribution to the public welfare. This time and talent so generously donated to the state is gratefully acknowledged.

The legislature further finds that membership on certain part-time groups involves responsibility for major policy decisions and represents a significant demand on the time and resources of members. The demands and responsibilities are well beyond reasonable expectations of an individual's gratuitous contribution to the public welfare. It is therefore appropriate to provide compensation to members of specific qualifying groups and further to provide three levels of compensation based on the responsibilities of the group and the time required to perform the group's statutory duties." [1984 c 287 § 1.]

Additional notes found at www.leg.wa.gov

43.03.230 Compensation of members of part-time boards and commissions—Class two groups (as amended by 2011 c 5). (1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class two board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class two groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible ~~(and)~~. Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class two groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2011 c 5 § 903; 2010 1st sp.s. c 7 § 143; 2001 c 315 § 11; 1984 c 287 § 3.]

Additional notes found at www.leg.wa.gov

43.03.230 Compensation of members of part-time boards and commissions—Class two groups (as amended by 2011 1st sp.s. c 21). (1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ No person designated as a member of a class two board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under RCW 43.03.049 ~~((605, chapter 3, Laws of 2010))~~. Class two groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~

(5) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ Class two groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2011 1st sp.s. c 21 § 56; 2010 1st sp.s. c 7 § 143; 2001 c 315 § 11; 1984 c 287 § 3.]

Reviser's note: RCW 43.03.230 was amended twice during the 2011 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.03.240 Compensation of members of part-time boards and commissions—Class three groups (as amended by 2011 c 5). (1) Any part-time, statutory board, commission, council, committee, or other similar

group which has rule-making authority, performs quasi-judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class three board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class three groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible ~~(and)~~. Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class three groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2011 c 5 § 904; 2010 1st sp.s. c 7 § 144; 1984 c 287 § 4.]

Additional notes found at www.leg.wa.gov

43.03.240 Compensation of members of part-time boards and commissions—Class three groups (as amended by 2011 1st sp.s. c 21). (1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi-judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ No person designated as a member of a class three board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under RCW 43.03.049 ~~((605, chapter 3, Laws of 2010))~~. Class three groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~

(5) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ Class three groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2011 1st sp.s. c 21 § 57; 2010 1st sp.s. c 7 § 144; 1984 c 287 § 4.]

Reviser's note: RCW 43.03.240 was amended twice during the 2011 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.03.250 Compensation of members of part-time boards and commissions—Class four groups (as amended by 2011 c 5). (1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, class four groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible ~~((and))~~. Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge. [2011 c 5 § 905; 2010 1st sp.s. c 7 § 145; 1984 c 287 § 5.]

Additional notes found at www.leg.wa.gov

43.03.250 Compensation of members of part-time boards and commissions—Class four groups (as amended by 2011 1st sp.s. c 21). (1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or

Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ Class four groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~ [2011 1st sp.s. c 21 § 58; 2010 1st sp.s. c 7 § 145; 1984 c 287 § 5.]

Reviser's note: RCW 43.03.250 was amended twice during the 2011 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.03.265 Compensation of members of part-time boards and commissions—Class five groups (as amended by 2011 c 5). (1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class five groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible ~~((and))~~. Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class five groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2011 c 5 § 906; 2010 1st sp.s. c 7 § 146; 1999 c 366 § 1.]

Additional notes found at www.leg.wa.gov

43.03.265 Compensation of members of part-time boards and commissions—Class five groups (as amended by 2011 1st sp.s. c 21). (1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member

attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.

(4) (~~Beginning July 1, 2010, through June 30, 2011,)~~ No person designated as a member of a class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under RCW 43.03.049 (~~605, chapter 3, Laws of 2010~~). Class five groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. (~~Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.~~)

(5) (~~Beginning July 1, 2010, through June 30, 2011,)~~ Class five groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel. [2011 1st sp.s. c 21 § 59; 2010 1st sp.s. c 7 § 146; 1999 c 366 § 1.]

Reviser's note: RCW 43.03.265 was amended twice during the 2011 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Additional notes found at www.leg.wa.gov

43.03.270 Guidelines for providing stipends and allowances to class one group members. (1) By December 1, 2022, the office of equity shall develop uniform equity-driven guidelines for agencies on the issuance of stipends and allowances authorized under RCW 43.03.220 to provide for consistent application of the law. In developing the guidelines, the office of equity shall consult with stakeholders including, but not limited to, state agencies and impacted communities. The guidelines for providing allowances must include the reasonable allowances as prescribed by the office of financial management under RCW 43.03.050.

(2) Agencies exercising their authority under RCW 43.03.220 to provide stipends or allowances to members of class one groups shall adhere to the guidelines established under subsection (1) of this section. [2022 c 245 § 3.]

Findings—2022 c 245: See note following RCW 43.03.220.

43.03.2705 Reports on stipends and allowances to class one group members. (1) An agency exercising its authority to provide stipends under RCW 43.03.220(2) must report to the Washington state office of equity by August 30, 2023, and August 30, 2024, for state fiscal years 2023 and 2024 respectively, the following information:

(a) A brief description of the groups for which stipends have been made available including:

(i) Number of members receiving a stipend or allowance; and

(ii) Aggregate demographic information of members of class one groups including race, ethnicity, income, and geographic representation by county;

(b) The amount of stipends distributed;

(c) The amount of allowances distributed;

(d) An analysis of whether and how the availability of stipends and allowances has reduced barriers to participation and increased the diversity of group participants; and

(e) An analysis of whether the provision of stipends and allowances resulted in more applications and willingness to participate.

(2) The Washington state office of equity shall:

(a) Compile and analyze the information received from agencies under this section; and

(b) Prepare a report, in compliance with RCW 43.01.036, to the governor and legislature by December 1, 2024. The report must include:

(i) An overall evaluation of the stipend process authorized in RCW 43.03.220(2);

(ii) Recommendations for improving the process; and

(iii) Recommendations to further decrease barriers to participation and increase the diversity of group applicants. [2022 c 245 § 7.]

Findings—2022 c 245: See note following RCW 43.03.220.

43.03.300 Salaries of elected state officials—Legislative declaration—Purpose. The legislature hereby declares it to be the policy of this state to base salaries of elected state officials on realistic standards in order that such officials may be paid according to the duties of their offices and so that citizens of the highest quality may be attracted to public service. It is the purpose of RCW 43.03.300 through 43.03.310 to effectuate this policy by creating a citizens' commission to establish proper salaries for such officials, thus removing political considerations in fixing the appropriateness of the amount of such salaries. [1986 c 155 § 1.]

Additional notes found at www.leg.wa.gov

43.03.305 Washington citizens' commission on salaries for elected officials—Generally (as amended by 2011 c 60). There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of sixteen members appointed by the governor as provided in this section.

(1) Nine of the sixteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under subsection (3) of this section. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) The remaining seven of the sixteen commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987,

and not later than the fifteenth day of February every four years through 1999. The terms of the members selected in 1999 shall terminate July 1, 2002, and the names of persons selected for appointment to the commission shall be forwarded to the governor not later than July 1, 2002. Of the sixteen names forwarded to the governor in 2002, the governor shall by lot select four of the persons selected under subsection (1) of this section and four of the persons selected under subsection (2) of this section to serve two-year terms, with the rest of the members serving four-year terms. Thereafter, except as provided in subsection (6) of this section, all members shall serve four-year terms and the names of eight persons selected for appointment to the commission shall be forwarded to the governor not later than the first day of July every two years.

(4) No person may be appointed to more than two terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter ~~((42.17))~~ 42.17A RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse or domestic partner, siblings, children, or dependent relative of the official, employee, or lobbyist whether or not living in the household of the official, employee, or lobbyist.

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided. [2011 c 60 § 34; 2008 c 6 § 204; 1999 c 102 § 1; 1995 c 3 § 1; 1993 c 281 § 46; 1986 c 155 § 2.]

Additional notes found at www.leg.wa.gov

43.03.305 Washington citizens' commission on salaries for elected officials—Generally (as amended by 2011 c 254). There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of ~~((sixteen))~~ members appointed by the governor as provided in this section.

(1) ~~((Nine of the sixteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under subsection (3) of this section. One member shall be selected from each congressional district.))~~ One registered voter from each congressional district shall be selected by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to serve on the commission. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) ~~((The remaining seven of the sixteen))~~ Seven commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of represen-

tatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except ~~((as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years through 1999. The terms of the members selected in 1999 shall terminate July 1, 2002, and the names of persons selected for appointment to the commission shall be forwarded to the governor not later than July 1, 2002. Of the sixteen names forwarded to the governor in 2002, the governor shall by lot select four of the persons selected under subsection (1) of this section and four of the persons selected under subsection (2) of this section to serve two-year terms, with the rest of the members serving four-year terms. Thereafter, except))~~ as provided in subsection (6) of this section, all members shall serve four-year terms and the names of ~~((eight))~~ the persons selected for appointment to the commission shall be forwarded to the governor not later than the first day of July every two years.

(4) No person may be appointed to more than two terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter *42.17 or 42.17A RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse or domestic partner, siblings, children, or dependent relative of the official ~~((, employee,))~~ or lobbyist whether or not living in the household of the official ~~((, employee,))~~ or lobbyist, and the parent, spouse or domestic partner, sibling, child, or dependent relative of the employee, living in the household of the employee or who is dependent in whole or in part for his or her support upon the earnings of the state employee.

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

(b) Initial members appointed from congressional districts created after July 22, 2011, shall be selected and appointed in the manner provided in subsection (1) of this section. The selection and appointment must be concluded within ninety days of the date the district is created. The term of an initial member appointed under this subsection terminates July 1st of an even-numbered year so that at no point may the terms of more than one-half plus one of the members selected under subsection (1) of this section terminate in the same year. [2011 c 254 § 1; 2008 c 6 § 204; 1999 c 102 § 1; 1995 c 3 § 1; 1993 c 281 § 46; 1986 c 155 § 2.]

Reviser's note: *(1) Provisions in chapter 42.17 RCW relating to campaign finance were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

(2) RCW 43.03.305 was amended twice during the 2011 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Additional notes found at www.leg.wa.gov

43.03.3051 Elected officials—Voluntary salary reduction. (1) From July 1, 2011, through June 29, 2013, any state elected official of the executive branch may voluntarily reduce his or her salary from that established pursuant to Article XXVIII, section 1 of the state Constitution by three percent.

(2) The department of personnel and office of financial management shall develop a form to be used by any state elected official of the executive branch to execute the salary reduction under subsection (1) of this section through the state's central personnel payroll system.

(3) A voluntary reduction in salary shall be effective and continue through June 29, 2013, unless the state elected official of the executive branch directs in writing that the department of personnel discontinue the reduction. [2011 1st sp.s. c 39 § 2.]

Additional notes found at www.leg.wa.gov

43.03.310 Duties of citizens' commission—Travel expenses—Chair—Schedule of salaries—Publication—Hearings. (1) The citizens' commission on salaries for elected officials shall study the relationship of salaries to the duties of members of the legislature, all elected officials of the executive branch of state government, and all judges of the supreme court, court of appeals, superior courts, and district courts, and shall fix the salary for each respective position.

(2) Except as provided otherwise in RCW 43.03.305 and this section, the commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

(3) Members of the commission shall receive no compensation for their services, but shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The members of the commission shall elect a chair from among their number. The commission shall set a schedule of salaries by an affirmative vote of not less than nine members of the commission.

(5) The commission shall file its initial schedule of salaries for the elected officials with the secretary of state no later than the first Monday in June, 1987, and shall file a schedule biennially thereafter. Each such schedule shall be filed in legislative bill form, shall be assigned a chapter number and published with the session laws of the legislature, and shall be codified by the statute law committee. The signature of the chair of the commission shall be affixed to each schedule submitted to the secretary of state. The chair shall certify that the schedule has been adopted in accordance with the provisions of state law and with the rules, if any, of the commission. Such schedules shall become effective ninety days after the filing thereof, except as provided in Article XXVIII, section 1 of the state Constitution. State laws regarding referendum petitions shall apply to such schedules to the extent consistent with Article XXVIII, section 1 of the state Constitution.

(6) Before the filing of any salary schedule, the commission shall first develop a proposed salary schedule and then hold no fewer than four regular meetings as defined by chapter 42.30 RCW to take public testimony on the proposed schedule within the four months immediately preceding the filing. In the 2009-2011 fiscal biennium, the commission shall hold no more than two regular meetings as defined by chapter 42.30 RCW to take public testimony on the proposed schedule within the four months immediately preceding the filing. At the last public hearing that is held as a regular meet-

ing on the proposed schedule, the commission shall adopt the salary schedule as originally proposed or as amended at that meeting that will be filed with the secretary of state.

(7) All meetings, actions, hearings, and business of the commission shall be subject in full to the open public meetings act, chapter 42.30 RCW.

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section. [2009 c 564 § 925; 1998 c 164 § 1; 1995 c 3 § 2; 1986 c 155 § 3.]

Additional notes found at www.leg.wa.gov

Chapter 43.04 RCW USE OF STATE SEAL

Sections

43.04.010	Legislative findings.
43.04.020	Definitions.
43.04.030	Use of state seal—Official purposes.
43.04.040	Use of state seal—Commemorative and souvenir items—Historical, educational, and civil purposes—Application—Fee—Licensing agreements—Rules.
43.04.050	Use of state seal—Prohibitions—Imitations.
43.04.060	Endorsements prohibited.
43.04.070	Civil penalties—Injunctions.
43.04.080	Investigations—Enforcement.
43.04.090	Criminal penalty.
43.04.100	Deposit of fees, penalties, and damages—Use.

43.04.010 Legislative findings. The legislature finds that the seal of the state of Washington is a symbol of the authority and sovereignty of the state and is a valuable asset of its people. It is the intent of the legislature to ensure that appropriate uses are made of the state seal and to assist the secretary of state in the performance of the secretary's constitutional duty as custodian of the seal. [1988 c 120 § 1.]

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

(1) "State seal" means the seal of the state as described in Article XVIII, section 1 of the state Constitution and in RCW 1.20.080.

(2) "Secretary" means the secretary of state and any designee of the secretary of state. [1988 c 120 § 2.]

43.04.030 Use of state seal—Official purposes. Except as otherwise provided in this chapter, the state seal shall be used for official purposes only. [1988 c 120 § 3.]

43.04.040 Use of state seal—Commemorative and souvenir items—Historical, educational, and civil purposes—Application—Fee—Licensing agreements—Rules. (1) The secretary of state may authorize the use of the state seal on commemorative and souvenir items, and for historical, educational, and civic purposes. Such authorization shall be in writing.

(2) Application for such authorization shall be in writing and shall be accompanied by a filing fee, the amount of which shall be determined by the secretary of state. The secretary shall set the fee at a level adequate to cover the administrative costs of processing the applications.

(3) If the secretary determines that a permitted use of the seal could financially benefit the state, the secretary may condition authorization upon a licensing agreement to secure those benefits for the state.

(4) The secretary of state shall adopt rules under chapter 34.05 RCW to govern the use of the seal in a manner consistent with this chapter. Any rule governing the use of the seal shall be designed to prevent inappropriate or misleading use of the seal and to assure tasteful and high quality reproduction of the seal. The rules shall also prescribe the circumstances when a licensing arrangement shall be required and the method for determining licensing fees. [1988 c 120 § 4.]

43.04.050 Use of state seal—Prohibitions—Imitations. (1) Except as otherwise provided in RCW 43.04.040, the state seal shall not be used on or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge.

(2) The state seal shall never be used in a political campaign to assist or defeat any candidate for elective office.

(3) It is a violation of this chapter to use any symbol that imitates the seal or that is deceptively similar in appearance to the seal, in any manner that would be an improper use of the official seal itself.

(4) Nothing in this chapter shall prohibit the reproduction of the state seal for illustrative purposes by the news media if the reproduction by the news media is incidental to the publication or the broadcast. Nothing in this chapter shall prohibit a characterization of the state seal from being used in political cartoons. [1988 c 120 § 5.]

43.04.060 Endorsements prohibited. No use of the state seal may operate or be construed to operate in any way as an endorsement of any business, organization, product, service, or article. [1988 c 120 § 6.]

43.04.070 Civil penalties—Injunctions. Any person who violates RCW 43.04.050 (1) or (3) by using the state seal or an imitative or deceptively similar seal on or in connection with any product, business, organization, service, or article shall be liable for damages in a suit brought by the attorney general. The damages shall be equal to the gross monetary amount gained by the misuse of the state seal or the use of the imitative or deceptively similar seal, plus attorney's fees and other costs of the state in bringing the suit. The "gross monetary amount" is the total of the gross receipts that can be reasonably attributed to the misuse of the seal or the use of an imitative or deceptively similar seal. In addition to the damages, the violator is subject to a civil penalty imposed by the court in an amount not to exceed five thousand dollars. In imposing this penalty, the court shall consider the need to deter further violations of this chapter.

The attorney general may seek and shall be granted such injunctive relief as is appropriate to stop or prevent violations of this chapter. [1988 c 120 § 7.]

43.04.080 Investigations—Enforcement. The secretary of state shall conduct investigations for violations of this chapter and may request enforcement by the attorney general. [1988 c 120 § 8.]

43.04.090 Criminal penalty. Any person who wilfully violates this chapter is guilty of a misdemeanor. [1988 c 120 § 9.]

43.04.100 Deposit of fees, penalties, and damages—Use. All fees, penalties, and damages received under this chapter shall be paid to the secretary of state and with the exception of the filing fee authorized in RCW 43.04.040(2) shall be deposited by the secretary into the capitol furnishings preservation committee account created in RCW 27.48.040. [2007 c 453 § 4; 1988 c 120 § 10.]

Findings—2007 c 453: See RCW 44.73.005.

**Chapter 43.05 RCW
TECHNICAL ASSISTANCE PROGRAMS**

Sections

43.05.005	Findings.
43.05.010	Definitions.
43.05.020	Agency programs—List of technical assistance providers.
43.05.030	Technical assistance visit—Notice of violation.
43.05.040	Time to correct violations—Revisit—Issuance of penalties.
43.05.050	Issuance of penalty during technical assistance visit.
43.05.060	Department of ecology—Notice of correction.
43.05.070	Department of ecology—Penalty.
43.05.080	Application of RCW 43.05.060 and 43.05.070—Limited.
43.05.090	Department of labor and industries—Consultative visit, report—Compliance inspection, citation.
43.05.100	Departments of agriculture, fish and wildlife, health, licensing, natural resources—Notice of correction.
43.05.110	Departments of agriculture, fish and wildlife, health, licensing, natural resources—Penalty.
43.05.120	Time for compliance—Extension.
43.05.130	Educational programs.
43.05.140	Pilot voluntary audit program.
43.05.150	Agency immunity—Enforcement authority.
43.05.160	Liquor and cannabis board—Notice of correction.
43.05.901	Conflict with federal requirements.
43.05.902	Resolution of conflict with federal requirements—Notification.
43.05.905	Findings—Short title—Intent—1995 c 403.

43.05.005 Findings. The legislature finds that, due to the volume and complexity of laws and rules it is appropriate for regulatory agencies to adopt programs and policies that encourage voluntary compliance by those affected by specific rules. The legislature recognizes that a cooperative partnership between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties will achieve greater compliance with laws and rules and that most individuals and businesses who are subject to regulation will attempt to comply with the law, particularly if they are given sufficient information. In this context, enforcement should assure that the majority of a regulated community that complies with the law are not placed at a competitive disadvantage and that a continuing failure to comply that is within the control of a party who has received technical assistance is considered by an agency when it determines the amount of any civil penalty that is issued. [1995 c 403 § 601.]

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

(1) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law or rules. The term does not include any criminal penalty, damage assessments, wages, premi-

ums, or taxes owed, or interest or late fees on any existing obligation.

(2) "Regulatory agency" means an agency as defined in RCW 34.05.010 that has the authority to issue civil penalties. The term does not include the state patrol or any institution of higher education as defined in RCW 28B.10.016.

(3) "Technical assistance" includes:

(a) Information on the laws, rules, and compliance methods and technologies applicable to the regulatory agency's programs;

(b) Information on methods to avoid compliance problems;

(c) Assistance in applying for permits; and

(d) Information on the mission, goals, and objectives of the program.

(4) "Technical assistance documents" means documents prepared to provide information specified in subsection (3) of this section entitled a technical assistance document by the agency head or its designee. Technical assistance documents do not include notices of correction, violation, or enforcement action. Technical assistance documents do not impose mandatory obligations or serve as the basis for a citation. [1999 c 236 § 1; 1995 c 403 § 602.]

43.05.020 Agency programs—List of technical assistance providers. All regulatory agencies shall develop programs to encourage voluntary compliance by providing technical assistance consistent with statutory requirements. The programs shall include but are not limited to technical assistance visits, printed information, information and assistance by telephone, training meetings, and other appropriate methods to provide technical assistance. In addition, all regulatory agencies shall provide upon request a list of organizations, including private companies, that provide technical assistance. This list shall be compiled by the agencies from information submitted by the organizations and shall not constitute an endorsement by an agency of any organization. [1995 c 403 § 603.]

43.05.030 Technical assistance visit—Notice of violation. (1) For the purposes of this chapter, a technical assistance visit is a visit by a regulatory agency to a facility, business, or other location that:

(a) Has been requested or is voluntarily accepted; and

(b) Is declared by the regulatory agency at the beginning of the visit to be a technical assistance visit.

(2) A technical assistance visit also includes a consultative visit pursuant to RCW 49.17.250.

(3) During a technical assistance visit, or within a reasonable time thereafter, a regulatory agency shall inform the owner or operator of the facility of any violations of law or agency rules identified by the agency as follows:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the agency requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the agency or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency. [1996 c 206 § 2; 1995 c 403 § 604.]

Findings—1996 c 206: "The legislature finds that many individuals and small businesses who are required to comply with laws and agency rules often do not have access to the Revised Code of Washington, the Washington Administrative Code, the United States Code, or the Code of Federal Regulations. In this case, those informed of violations do not know whether, or to what extent, the cited law or agency rule actually applies to their situation. In order to facilitate greater understanding of the law and agency rules, the legislature finds that those who make the effort to obtain technical assistance from a regulatory agency, and those who are issued a notice of correction, should be given the text of the specific section or subsection of the law or agency rule they are alleged to have violated." [1996 c 206 § 1.]

43.05.040 Time to correct violations—Revisit—Issuance of penalties. (1) The owner and operator shall be given a reasonable period of time to correct violations identified during a technical assistance visit before any civil penalty provided for by law is imposed for those violations. A regulatory agency may revisit a facility, business, or other location after a technical assistance visit and a reasonable period of time has passed to correct violations identified by the agency in writing and issue civil penalties as provided for by law for any uncorrected violations.

(2) During a visit under subsection (1) of this section, the regulatory agency may not issue civil penalties for violations not previously identified in a technical assistance visit, unless the violations are of the type for which the agency may issue a citation: (a) During a technical assistance visit under RCW 43.05.050; or (b) under RCW 43.05.090. [2001 c 190 § 1; 1995 c 403 § 605.]

43.05.050 Issuance of penalty during technical assistance visit. A regulatory agency that observes a violation during a technical assistance visit may issue a civil penalty as provided for by law if: (1) The individual or business has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) the issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 606.]

43.05.060 Department of ecology—Notice of correction. (1) If in the course of any site inspection or visit that is not a technical assistance visit, the department of ecology becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.070, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1996 c 206 § 3; 1995 c 403 § 607.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.070 Department of ecology—Penalty. The department of ecology may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. [1995 c 403 § 608.]

43.05.080 Application of RCW 43.05.060 and 43.05.070—Limited. The provisions of RCW 43.05.060 and 43.05.070 affecting civil penalties issued by the department of ecology shall not apply to civil penalties for negligent discharge of oil as authorized under RCW 90.56.330 or to civil penalties as authorized under RCW 90.03.600 for unlawful use of water in violation of RCW 90.03.250 or 90.44.050. [1995 c 403 § 609.]

43.05.090 Department of labor and industries—Consultative visit, report—Compliance inspection, citation.

(1) Following a consultative visit pursuant to RCW 49.17.250, the department of labor and industries shall issue a report to the employer that the employer shall make available to its employees. The report shall contain:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of means to contact technical assistance services provided by the department; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) Following a compliance inspection pursuant to RCW 49.17.120, the department of labor and industries shall issue

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a citation for violations of industrial safety and health standards. The citation shall not assess a penalty if the violations:

(a) Are determined not to be of a serious nature;

(b) Have not been previously cited;

(c) Are not willful; and

(d) Do not have a mandatory penalty under chapter 49.17 RCW. [1996 c 206 § 4; 1995 c 403 § 610.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.100 Departments of agriculture, fish and wild-life, health, licensing, natural resources—Notice of correction.

(1) If in the course of any inspection or visit that is not a technical assistance visit, the department of agriculture, fish and wildlife, health, licensing, or natural resources becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.110, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. [1996 c 206 § 5; 1995 c 403 § 611.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.05.110 Departments of agriculture, fish and wild-life, health, licensing, natural resources—Penalty.

The department of agriculture, fish and wildlife, health, licensing, or natural resources may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; [or] (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months. In addition, the department of fish and wildlife may issue a civil penalty provided for by law without first issuing a notice of

correction for a violation of any rule dealing with seasons, catch or bag limits, gear types, or geographical areas for fish or wildlife removal, reporting, or disposal.

This section does not apply to the civil penalties imposed under *RCW 82.38.170(13). [1998 c 176 § 84; 1995 c 403 § 612.]

*Reviser's note: RCW 82.38.170 was amended by 2013 c 225 § 118, deleting subsection (13), effective July 1, 2016.

43.05.120 Time for compliance—Extension. The date for compliance established by the department of ecology, labor and industries, agriculture, fish and wildlife, health, licensing, or natural resources pursuant to RCW 43.05.060, 43.05.090, or 43.05.100 respectively shall provide for a reasonable time to achieve compliance. Any person receiving a notice of correction pursuant to RCW 43.05.060 or 43.05.100 or a report or citation pursuant to RCW 43.05.090 may request an extension of time to achieve compliance for good cause from the issuing department. Requests shall be submitted to the issuing department and responded to by the issuing department in writing in accordance with procedures specified by the issuing department in the notice, report, or citation. [1995 c 403 § 613.]

43.05.130 Educational programs. The departments of revenue and labor and industries and the employment security department shall undertake an educational program directed at those who have the most difficulty in determining their tax or premium liability. The departments may rely on information from internal data, trade associations, and businesses to determine which entities should be selected. The educational programs may include, but not be limited to, targeted informational fact sheets, self-audits, or workshops, and may be presented individually by the agency or in conjunction with other agencies. [1995 c 403 § 614.]

43.05.140 Pilot voluntary audit program. The department of revenue, the department of labor and industries in respect to its duties in Title 51 RCW, and the employment security department shall develop and administer a pilot voluntary audit program. Voluntary audits can be requested by businesses from any of these agencies according to guidelines established by each agency. No penalty assessments may be made against participants in such a program except when the agency determines that either a good faith effort has not been made by the taxpayer or premium payer to comply with the law or that the taxpayer has failed to remit previously collected sales taxes to the state. The persons conducting the voluntary audit shall provide the business undergoing the voluntary audit an audit report that describes errors or omissions found and future reporting instructions. This program does not relieve a business from past or future tax or premium obligations. [1995 c 403 § 615.]

43.05.150 Agency immunity—Enforcement authority. Nothing in this chapter obligates a regulatory agency to conduct a technical assistance visit. The state and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from providing technical assistance, or if liability is asserted to arise from the failure of the state or officers or employees of the

state to provide technical assistance. This chapter does not limit the authority of any regulatory agency to take any enforcement action, other than a civil penalty, authorized by law. This chapter shall not limit a regulatory agency's authority to issue a civil penalty as authorized by law based upon a person's failure to comply with specific terms and conditions of any permit or license issued by the agency to that person. [1995 c 403 § 617.]

43.05.160 Liquor and cannabis board—Notice of correction. (1) If, during an inspection or visit to a cannabis business licensed under chapter 69.50 RCW that is not a technical assistance visit, the liquor and cannabis board becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the board and are not subject to civil penalties as provided for in RCW 69.50.563, the board may issue a notice of correction to the licensee that includes:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the board requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the board or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the board.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the liquor and cannabis board issues a notice of correction, it may not issue a civil penalty for the violations identified in the notice of correction unless the licensee fails to comply with the notice. [2022 c 16 § 32; 2019 c 394 § 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—2019 c 394: See note following RCW 69.50.563.

43.05.901 Conflict with federal requirements. If a regulatory agency determines any part of this chapter to be in conflict with federal law or program requirements, in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or in conflict with the requirements for eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict. Any rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1995 c 403 § 619.]

43.05.902 Resolution of conflict with federal requirements—Notification. If notified by responsible federal officials of any conflict of this chapter with federal law or program requirements or with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the regulatory agency notified of the conflict shall actively seek to resolve the conflict. If the agency determines that the conflict cannot be resolved without loss of benefits or authority to the state, the agency shall notify the governor, the

president of the senate, and the speaker of the house of representatives in writing within thirty days of making that determination. [1995 c 403 § 620.]

43.05.905 Findings—Short title—Intent—1995 c 403. See note following RCW 34.05.328.

Chapter 43.06 RCW GOVERNOR

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Appointing power

accountancy board: RCW 18.04.035.
administrator for the courts: RCW 2.56.010.
board for architects: RCW 18.08.330.
board of registration of professional engineers and land surveyors: RCW 18.43.030.
board of tax appeals: RCW 82.03.020.
center for volunteerism and citizen service: RCW 43.150.040.
clemency and pardons board: RCW 9.94A.880.
college district boards of trustees: RCW 28B.50.100.
court of appeals vacancy: State Constitution Art. 4 § 30; RCW 2.06.080.
criminal justice training commission: RCW 43.101.030.
degree-granting institutions, attorney general participation: Chapter 28B.85 RCW.
department of ecology, director of: RCW 43.21A.050.
department of social and health services, secretary of: RCW 43.20A.040.
directors of state departments and agencies: RCW 43.17.020.
electrical advisory board members: RCW 19.28.311.
energy facility site evaluation council: RCW 80.50.030.
financial management, director: RCW 43.41.060.
fish and wildlife commission: RCW 77.04.030.
higher education facilities authority: RCW 28B.07.030.
industrial insurance appeals board: RCW 51.52.010.
investment board members: RCW 43.33A.020.
judges of court of appeals, vacancy: State Constitution Art. 4 § 30; RCW 2.06.080.
judges of superior court, vacancy: State Constitution Art. 4 § 5; RCW 2.08.120.
vacancy resulting from creation of additional judgeship: RCW 2.08.069.
justices of supreme court, vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.
license examining committee: RCW 43.24.060.
militia officers: State Constitution Art. 10 § 2.
optometry board members: RCW 18.54.030.
Pacific marine fisheries commission, appointment of representatives to: RCW 77.75.040.
pharmacy quality assurance commission: RCW 18.64.001.
physical therapy board committee: RCW 18.74.020.
podiatric medical board: RCW 18.22.013.
pollution control hearings board of the state: RCW 43.21B.020, 43.21B.030.
private vocational schools, attorney general participation: Chapter 28C.10 RCW.
railroad police officers: RCW 81.60.010.
real estate commission: RCW 18.85.021.
recreation and conservation funding board: RCW 79A.25.110.
regents of educational institutions: State Constitution Art. 13 § 1.
state arts commission: RCW 43.46.015.
state board for community and technical colleges: RCW 28B.50.050, 28B.50.070.
state board of health: RCW 43.20.030.
state college boards of trustees: RCW 28B.40.100.
state patrol chief: RCW 43.43.020.
statute law committee members: RCW 1.08.001.
superior court vacancy: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
supreme court vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.

- traffic safety commission: RCW 43.59.030.
 transportation commission members: RCW 47.01.051.
 uniform law commission: RCW 43.56.010.
 United States senator, filling vacancy in office of: RCW 29A.28.030.
 University of Washington board of regents: RCW 28B.20.100.
 utilities and transportation commission: RCW 80.01.010.
 vacancies in
 appointive office filled by: State Constitution Art. 3 § 13.
 court of appeals, filled by: State Constitution Art. 4 § 30; RCW 2.06.080.
 legislature, duties: State Constitution Art. 2 § 15.
 superior court, filled by: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
 supreme court, filled by: State Constitution Art. 4 § 3; RCW 2.04.100.
 veterinary board of governors: RCW 18.92.021.
 visiting judges of superior court: RCW 2.08.140.
 Washington personnel resources board: RCW 41.06.110.
 Washington State University board of regents: RCW 28B.30.100.
- Approval of laws: State Constitution Art. 3 § 12.
 Associations of municipal corporations or officers to furnish information to governor: RCW 44.04.170.
 Attorney general, advice to governor: RCW 43.10.030.
 Board of natural resources member: RCW 43.30.205.
 Bonds, notes and other evidences of indebtedness, governor's duties: Chapter 39.42 RCW.
 Clemency and pardons board, established as board in office of governor: RCW 9.94A.880.
 Collective bargaining negotiations for marine employees: RCW 47.64.170 and 47.64.175.
 Commander-in-chief of state militia: State Constitution Art. 3 § 8.
 Commissions issued by state, signed by: State Constitution Art. 3 § 15.
 Commutation of death sentence, power to commute: RCW 10.01.120.
 Continuity of government in event of enemy attack, succession to office of governor: RCW 42.14.020.
 Driver license compact, executive head: RCW 46.21.040.
 Election certificates issued for state and congressional offices by: RCW 29A.52.370.
 Election of: State Constitution Art. 3 § 1.
 Execution of laws: State Constitution Art. 3 § 5.
 Extradition proceedings
 power and duties as to: RCW 10.34.030.
 warrant issued by: RCW 10.88.260.
 Federal REAL ID Act of 2005, approval of attorney general legal challenge: RCW 46.20.1911.
 Fines, power to remit: State Constitution Art. 3 § 11.
 Forfeitures, power to remit: State Constitution Art. 3 § 11.
 Highway
 construction bonds and coupons, governor to sign: Chapter 47.10 RCW.
 toll facility property sale, deed executed by: RCW 47.56.255.
 Impeachment: State Constitution Art. 5 §§ 1, 2.
 Indians, assumption of state jurisdiction, proclamation by governor: RCW 37.12.021.
 Information in writing may be required from state officers: State Constitution Art. 3 § 5.
 Interstate compact on juveniles, duties: Chapter 13.24 RCW.
 Judges' retirement applications, doctors' examination report, approval and filing of: RCW 2.12.020.
 Judicial officers
 extension of leave of absence of: State Constitution Art. 4 § 8.
 superior court, assignment to another county by: State Constitution Art. 4 §§ 5, 7.
 Legal holidays
 designation of: RCW 1.16.050.
 proclamation process, applicability to courts: RCW 2.28.100.
 Legislature
 extra session, may convene: State Constitution Art. 3 § 7.
 messages to: State Constitution Art. 3 § 6.
 vacancies, filled by: State Constitution Art. 2 § 15.
 Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.
 Marketing agreements or orders, annual audit of financial affairs under, governor to receive reports of: RCW 15.65.490.
 Messages to legislature: State Constitution Art. 3 § 6.
 Militia and military affairs
 commander-in-chief of militia: State Constitution Art. 3 § 8; RCW 38.08.020.
 compacts with other states for guarding boundaries: RCW 38.08.100.
 eminent domain for military purposes: RCW 8.04.170, 8.04.180.
 martial law, proclamation by, when: RCW 38.08.030.
 officers, commissioned by: State Constitution Art. 10 § 2.
 personal staff: RCW 38.08.070.
 rules promulgated by: RCW 38.08.090.
 strength, composition, training, etc., prescribed by: RCW 38.04.040.
 Motor vehicle administration, annual report of director of licensing to go to: RCW 46.01.290.
 OASI, agreement of state for participation of state and political subdivision employees, duties concerning: Chapter 41.48 RCW.
 Oath of office: RCW 43.01.020.
 Official bonds, approval of: RCW 42.08.100.
 Pardons
 power to grant: RCW 10.01.120.
 report to legislature of: State Constitution Art. 3 §§ 9, 11.
 restrictions prescribed by law: State Constitution Art. 3 § 9.
 Paroles, governor may revoke: RCW 9.95.160.
 Protection for governor, lieutenant governor, and governor elect, duty of chief of state patrol to provide: RCW 43.43.035.
 Puget Sound ferry and toll bridge system, governor's powers and duties relating to: Chapter 47.60 RCW.
 Registry of governor's acts kept by secretary of state: RCW 43.07.030.
 Remission of fines and forfeitures report to legislature with reasons: State Constitution Art. 3 § 11.
 Reports to governor
 agricultural marketing agreements or orders, audits and financial reports: RCW 15.65.490.
 agricultural marketing legislation recommendations: RCW 15.64.010.
 agriculture director: RCW 43.23.130.
 annual report by state officers, etc., period covered: RCW 43.01.035.
 business license center: RCW 19.02.030.
 department of personnel: RCW 43.03.028.
 engineers and land surveyors board of registration: RCW 18.43.035.
 enrollment forecasts: RCW 43.62.050.
 financial management, director: RCW 43.88.160.
 fish and wildlife director: RCW 77.04.120.
 horse racing commission: RCW 67.16.015.
 human rights commission: RCW 49.60.100.
 indeterminate sentence review board: RCW 9.95.265.
 industrial insurance, violations: RCW 51.04.020.
 investment activities of state investment board: RCW 43.33A.150.
 judges of the supreme court to report defects or omissions in laws to: RCW 2.04.230.
 labor and industries director: RCW 49.12.180.
 motor vehicle administration, director of licensing: RCW 46.01.290.
 state arts commission: RCW 43.46.070.
 state board for community and technical colleges: RCW 28B.50.070.
 state board of health: RCW 43.20.100.
 state officers: State Constitution Art. 3 § 5.
 state parks and recreation commission: RCW 79A.05.030.
 superintendent of public instruction, biennial report: RCW 28A.300.040.
 University of Washington board of regents: RCW 28B.20.130.
 veterans' rehabilitation council: RCW 43.61.040.
 Reprieves
 power to grant: RCW 10.01.120.
 report to legislature: State Constitution Art. 3 § 11.
 Residence at seat of government: State Constitution Art. 3 § 24.
 Resignation by state officers and members of legislature made to: RCW 42.12.020.

Salaries of public officials, governor's duties: RCW 43.03.028 and 43.03.040.

Salary of governor, amount of: State Constitution Art. 28 § 1; RCW 43.03.010.

Sale of unneeded toll facility property, governor to execute deed: RCW 47.56.255.

School apportionment demands estimate certified to: RCW 28A.300.170.

Secretary of transportation, governor to fix salary of: RCW 47.01.031.

Security and protection for governor, lieutenant governor, and governor elect, duty of state patrol to provide: RCW 43.43.035.

State capitol committee member: RCW 43.34.010.

State finance committee member: RCW 43.33.010.

State parks, disposal of land not needed for park purposes, conveyance instruments executed by: RCW 79A.05.175.

State participation within student exchange compact programs—Office to advise governor: RCW 28B.76.650.

Succession to governorship: State Constitution Art. 3 § 10.

Superior court judge, assignment to another county: State Constitution Art. 4 §§ 5, 7.

Supreme executive power vested in: State Constitution Art. 3 § 2.

Term of office: State Constitution Art. 3 § 2; RCW 43.01.010.

Toll bridge bonds, governor to countersign: RCW 47.56.140.

Toll bridges, improvement of existing bridge and construction of new bridge as single project, governor's powers and duties relating to: Chapter 47.58 RCW.

Traffic safety commission and programs, powers, duties and responsibilities of governor: Chapter 43.59 RCW.

Unanticipated receipts, governor as state's agent to receive: RCW 43.79.260.

Unemployment compensation, delinquent payments in lieu of contributions of political subdivisions, governor may withhold funds for: RCW 50.24.125.

Uniform interstate family support act extradition powers and duties: RCW 26.21A.650. governor defined for purposes of: RCW 26.21A.650.

United States senate, filling vacancy in: RCW 29A.28.030.

Vacancies

in court of appeals: State Constitution Art. 4 § 30; RCW 2.06.080.

in legislature, duties: State Constitution Art. 2 § 15.

in office filled by: State Constitution Art. 3 § 13.

in superior court: State Constitution Art. 4 § 5.

in supreme court: State Constitution Art. 4 § 3.

Vacancy in office of governor

election to fill: State Constitution Art. 3 § 10.

succession to: State Constitution Art. 3 § 10.

Veto

initiatives and referendums, power does not extend to: State Constitution Art. 2 § 1.

power of: State Constitution Art. 3 § 12.

Voluntary action center, establishment by governor: RCW 43.150.040.

Washington scholars' program, participation in: RCW 28A.600.100 through 28A.600.150.

Water pollution control, powers and duties pertaining to: RCW 90.48.260, 90.48.262.

43.06.010 General powers and duties. In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, including as provided in RCW 42.12.070, and the duties thereof performed, or in default thereof, apply such remedy

as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of the prosecutor's duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(14) The governor, after finding that a prohibited level 1 or level 2 species as defined in chapter 77.135 RCW has been detected and after finding that the detected species seriously endangers or threatens the environment, economy, human health, or well-being of the state of Washington, may order emergency measures to prevent or abate the prohibited species, which measures, after thorough evaluation of all other

alternatives, may include the surface or aerial application of pesticides;

(15) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), the governor is authorized and empowered to execute on behalf of the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands. [2014 c 202 § 305; 1994 c 223 § 3; 1993 c 142 § 5; 1992 c 172 § 1; 1991 c 257 § 22; 1982 c 153 § 1; 1979 ex.s. c 53 § 4; 1977 ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Findings—2014 c 202: See note following RCW 77.135.010.

Rewards by county legislative authorities: Chapter 10.85 RCW.

Additional notes found at www.leg.wa.gov

43.06.013 Requests for nonconviction criminal history fingerprint record checks for agency heads— "Agency head" defined. When requested by the governor or the director of the department of enterprise services, non-conviction criminal history fingerprint record checks shall be conducted through the Washington state patrol identification and criminal history section and the federal bureau of investigation on applicants for agency head positions appointed by the governor. Information received pursuant to this section shall be confidential and made available only to the governor or director of financial management or their employees directly involved in the selection, hiring, or background investigation of the subject of the record check. When necessary, applicants may be employed on a conditional basis pending completion of the criminal history record check. "Agency head" as used in this section has the same definition as provided in RCW 34.05.010. [2015 3rd sp.s. c 1 § 320; 2011 1st sp.s. c 43 § 454; 2006 c 45 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.06.015 Interstate oil compact commission—Governor may join. The governor is authorized, on behalf of the state of Washington, to join the interstate oil compact commission as an associate member and to become an active member thereof if and when oil and gas are produced in Washington in commercial quantities and to attend meetings and participate in the activities carried on by said commission either in person or by a duly authorized representative. [1965 c 8 § 43.06.015. Prior: 1953 c 47 § 1.]

Interstate compact to conserve oil and gas: 65 Stat. 199 (P. L. 128, ch. 350) Aug. 28, 1951. Associate membership authorized by Art. 9 § 2 of the commission's bylaws.

43.06.020 Records to be kept. The governor must cause to be kept the following records:

First, a register of all pardons, commutations, executive paroles, final discharges, and restorations of citizenship made by him or her;

Second, an account of all his or her disbursements of state moneys, and of all rewards offered by him or her for the apprehension of criminals and persons charged with crime;

Third, a register of all appointments made by him or her with date of commission, name of appointee and name of pre-

decessor, if any. [2009 c 549 § 5013; 1965 c 8 § 43.06.020. Prior: 1921 c 28 § 1; 1890 p 628 § 2; RRS § 10983.]

43.06.030 Appointments to senate for confirmation—Notice. For a gubernatorial appointment to be effective, the governor must transmit to the secretary of the senate notice of the appointment, along with pertinent information regarding the appointee, within fourteen days after making any appointment subject to senate confirmation. [1981 c 338 § 12; 1965 c 8 § 43.06.030. Prior: 1890 p 629 § 3; RRS § 10984.]

43.06.040 Lieutenant governor acts in governor's absence. If the governor absents himself or herself from the state, he or she shall, prior to his or her departure, notify the lieutenant governor of his or her proposed absence, and during such absence the lieutenant governor shall perform all the duties of the governor. [2009 c 549 § 5014; 1965 c 8 § 43.06.040. Prior: 1890 p 629 § 6; RRS § 10985.]

Duties of lieutenant governor: State Constitution Art. 3 § 16.

43.06.050 Powers and duties of acting governor. Every provision of law in relation to the powers and duties of the governor, and in relation to acts and duties to be performed by others towards him or her, extends to the person performing for the time being the duties of governor. [2009 c 549 § 5015; 1965 c 8 § 43.06.050. Prior: 1890 p 629 § 4; RRS § 10986.]

43.06.055 Governor-elect—Appropriation to provide office and staff. The legislature preceding the gubernatorial election shall make an appropriation which may only be expended by a newly elected governor other than the incumbent for the purpose of providing office and staff for the governor-elect preparatory to his or her assumption of duties as governor. The funds for the appropriation shall be made available to him or her not later than thirty days prior to the date when the legislature will convene. [2009 c 549 § 5016; 1969 ex.s. c 88 § 1.]

43.06.060 Expense of publishing proclamations. When the governor is authorized or required by law to issue a proclamation, payment for publishing it shall be made out of the state treasury. [1965 c 8 § 43.06.060. Prior: 1881 p 45 §§ 1-3; Code 1881 § 2367; RRS § 10988.]

43.06.070 Removal of appointive officers. The governor may remove from office any state officer appointed by him or her not liable to impeachment, for incompetency, misconduct, or malfeasance in office. [2009 c 549 § 5017; 1965 c 8 § 43.06.070. Prior: 1893 c 101 § 1; RRS § 10988.]

43.06.080 Removal of appointive officers—Statement of reasons to be filed. Whenever the governor is satisfied that any officer not liable to impeachment has been guilty of misconduct, or malfeasance in office, or is incompetent, he or she shall file with the secretary of state a statement showing his or her reasons, with his or her order of removal, and the secretary of state shall forthwith send a certified copy of such order of removal and statement of causes by registered mail to the last known post office address of the officer

in question. [2009 c 549 § 5018; 1965 c 8 § 43.06.080. Prior: 1893 c 101 § 2; RRS § 10989.]

43.06.090 Removal of appointive officers—Filling of vacancy. At the time of making any removal from office, the governor shall appoint some proper person to fill the office, who shall forthwith demand and receive from the officer removed the papers, records, and property of the state pertaining to the office, and shall perform the duties of the office and receive the compensation thereof until his or her successor is appointed. [2009 c 549 § 5019; 1965 c 8 § 43.06.090. Prior: 1893 c 101 § 3; RRS § 10990.]

43.06.092 Gubernatorial appointees—Continuation of service—Appointments to fill vacancies. (1) Any gubernatorial appointee subject to senate confirmation shall continue to serve unless rejected by a vote of the senate. An appointee who is rejected by a vote of the senate shall not be reappointed to the same position for a period of one year from termination of service.

(2) Any person appointed by the governor to fill the unexpired term of an appointment subject to senate confirmation must also be confirmed by the senate. [1981 c 338 § 2.]

43.06.094 Gubernatorial appointees—Removal prior to confirmation. Gubernatorial appointees subject to senate confirmation, other than those who serve at the governor's pleasure, may not be removed from office without cause by the governor prior to confirmation except upon consent of the senate as provided for by the rules of the senate. [1981 c 338 § 1.]

43.06.110 Economic opportunity act programs—State participation—Authority of governor. The governor, or his or her designee, is hereby authorized and empowered to undertake such programs as will, in the judgment of the governor, or his or her designee, enable families and individuals of all ages, in rural and urban areas, in need of the skills, knowledge, motivations, and opportunities to become economically self-sufficient to obtain and secure such skills, knowledge, motivations, and opportunities. Such programs may be engaged in as solely state operations, or in conjunction or cooperation with any appropriate agency of the federal government, any branch or agency of the government of this state, any city or town, county, municipal corporation, metropolitan municipal corporation or other political subdivision of the state, or any private corporation. Where compliance with the provisions of federal law or rules or regulations promulgated thereunder is a necessary condition to the receipt of federal funds by the state, the governor or his or her designee, is hereby authorized to comply with such laws, rules or regulations to the extent necessary for the state to cooperate most fully with the federal government in furtherance of the programs herein authorized. [2009 c 549 § 5020; 1971 ex.s. c 177 § 2; 1965 c 14 § 2.]

County participation in Economic Opportunity Act programs: RCW 36.32.410.

43.06.115 Militarily impacted area—Declaration by governor. (1) The governor may, by executive order, after consultation with or notification of the executive-legislative

committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, declare a community to be a "military impacted area." A "military impacted area" means a community or communities, as identified in the executive order, that experience serious social and economic hardships because of a change in defense spending by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the military impacted community. The response team may include, but not be limited to, one member from each of the following agencies: (a) The department of commerce; (b) the department of social and health services; (c) the employment security department; (d) the state board for community and technical colleges; (e) the student achievement council; and (f) the department of transportation. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted. [2012 c 229 § 583; 1998 c 245 § 47; 1996 c 186 § 505; 1995 c 399 § 61; 1993 c 421 § 2.]

*Reviser's note: Senate Bill No. 5300 was vetoed.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—Intent—1993 c 421: "The legislature finds that military base expansions, closures, and defense procurement contract cancellations may have extreme economic impacts on communities and firms. The legislature began to address this concern in 1990 by establishing the community diversification program in the department of community development. While this program has helped military dependent communities begin the long road to diversification, base expansions or closures or major procurement contract reductions in the near future will find these communities unable to respond adequately, endangering the health, safety, and welfare of the community. The legislature intends to target emergency state assistance to military dependent communities significantly impacted by defense spending. The emergency state assistance and the long-term strategy should be driven by the impacted community and consistent with the state plan for diversification required under RCW 43.63A.450(4)." [1993 c 421 § 1.]

43.06.120 Federal funds and programs—Acceptance of funds by governor authorized—Administration and disbursement. The governor is authorized to accept on behalf of the state of Washington funds provided by any act of congress for the benefit of the state or its political subdivisions. He or she is further authorized to administer and disburse such funds, or to designate an agency to administer and disburse them, until the legislature otherwise directs. [2009 c 549 § 5021; 1967 ex.s. c 41 § 1.]

43.06.130 Federal funds and programs—Payment of travel expenses of committees, councils, or other bodies. Members of advisory committees, councils, or other bodies established to meet requirements of acts of congress may be paid travel expenses incurred pursuant to RCW 43.03.050

and 43.03.060 as now existing or hereafter amended from such funds as may be available by legislative appropriation or as may otherwise be available as provided by law. [1975-'76 2nd ex.s. c 34 § 97; 1973 2nd ex.s. c 17 § 1; 1967 ex.s. c 41 § 2.]

Additional notes found at www.leg.wa.gov

43.06.150 Federal funds and programs—Participating agencies to notify director of financial management, joint legislative audit and review committee and legislative council—Progress reports. See RCW 43.88.205.

43.06.155 Health care reform deliberations—Principles—Policies. (1) The following principles shall provide guidance to the state of Washington in its health care reform deliberations:

(a) **Guarantee choice.** Provide the people of Washington state with a choice of health plans and physicians, including health plans offered through the private insurance market and public programs, for those who meet eligibility standards. People will be allowed to keep their own doctor and their employer-based health plan.

(b) **Make health coverage affordable.** Reduce waste and fraud, high administrative costs, unnecessary tests and services, and other inefficiencies that drive up costs with no added health benefits.

(c) **Protect families' financial health.** Reduce the growing premiums and other costs that the people of Washington state pay for health care. People must be protected from bankruptcy due to catastrophic illness.

(d) **Invest in prevention and wellness.** Invest in public health measures proven to reduce cost drivers in our system, such as obesity, sedentary lifestyles, and smoking, as well as guarantee access to proven preventive treatments.

(e) **Provide portability of coverage.** People should not be locked into their job just to secure health coverage, and no American should be denied coverage because of preexisting conditions.

(f) **Aim for universality.** Building on the work of the blue ribbon commission and other state health care reform initiatives and recognizing the current economic climate, the state will partner with national health care reform efforts toward a goal of enabling all Washingtonians to have access to affordable, effective health care by 2014 as economic conditions and national reforms indicate.

(g) **Improve patient safety and quality care.** Ensure the implementation of proven patient safety measures and provide incentives for changes in the delivery system to reduce unnecessary variability in patient care. Support the widespread use of health information technology with rigorous privacy protections and the development of data on the effectiveness of medical interventions to improve the quality of care delivered.

(h) **Maintain long-term fiscal sustainability.** Any reform plan must pay for itself by reducing the level of cost growth, improving productivity, dedicating additional sources of revenue, and defining the appropriate role of the private and public sectors in financing health care coverage in Washington state.

(2) Over the past twenty years, both the private and public health care sectors in the state of Washington have imple-

mented policies that are consistent with the principles in subsection (1) of this section. Most recently, the governor's blue ribbon commission on health reform agreed to recommendations that are highly consistent with those principles. Current policies in Washington state in accord with those principles include:

(a) With respect to aiming for universality and access to a choice of affordable health care plans and health care providers:

(i) The Washington basic health plan offers affordable health coverage to low-income families and individuals in Washington state through a choice of private managed health care plans and health care providers;

(ii) Apple health for kids will achieve its dual goals that every child in Washington state have health care coverage by 2010 and that the health status of children in Washington state be improved. Only four percent of children in Washington state lack health insurance, due largely to efforts to expand coverage that began in 1993;

(iii) Through the health insurance partnership program, Washington state has designed the infrastructure for a health insurance exchange for small employers that would give employers and employees a choice of private health benefit plans and health care providers, offer portability of coverage and provide a mechanism to offer premium subsidies to low-wage employees of these employers;

(iv) Purchasers, insurance carriers, and health care providers are working together to significantly reduce health care administrative costs. These efforts have already produced efficiencies, and will continue through the activities provided in *Second Substitute Senate Bill No. 5346, if enacted by the 2009 legislature; and

(v) Over one hundred thousand Washingtonians have enrolled in the state's discount prescription drug card program, saving consumers over six million dollars in prescription drug costs since February 2007, with an average discount of twenty-two dollars or forty-three percent of the price of each prescription filled.

(b) With respect to improving patient safety and quality of care and investing in prevention and wellness, the public and private health care sectors are engaged in numerous nationally recognized efforts:

(i) The Puget Sound health alliance is a national leader in identifying evidence-based health care practices, and reporting to the public on health care provider performance with respect to these practices. Many of these practices address disease prevention and management of chronic illness;

(ii) The Washington state health technology assessment program and prescription drug program use medical evidence and independent clinical advisors to guide the purchasing of clinically and cost-effective health care services by state purchased health care programs;

(iii) Washington state's health record bank pilot projects are testing a new model of patient controlled electronic health records in three geographic regions of the state. The state has also provided grants to a number of small provider practices to help them implement electronic health records;

(iv) Efforts are underway to ensure that the people of Washington state have a medical home, with primary care providers able to understand their needs, meet their care needs effectively, better manage their chronic illnesses, and

coordinate their care across the health care system. These efforts include group health cooperative of Puget Sound's medical home projects, care collaboratives sponsored by the state department of health, state agency chronic care management pilot projects, development of apple health for kids health improvement measures as indicators of children having a medical home, and implementation of medical home reimbursement pilot projects under **Substitute Senate Bill No. 5891, if enacted by the 2009 legislature; and

(v) Health care providers, purchasers, the state, and private quality improvement organizations are partnering to undertake numerous patient safety efforts, including hospital and ambulatory surgery center adverse events reporting, with root cause analysis to identify actions to be undertaken to prevent further adverse events; reporting of hospital acquired infections and undertaking efforts to reduce the rate of these infections; developing a surgical care outcomes assessment program that includes a presurgery checklist to reduce medical errors; and developing a patient decision aid pilot to more fully inform patients of the risks and benefits of treatment alternatives, decrease unnecessary procedures and variation in care, and provide increased legal protection to physicians whose patients use a patient decision aid to provide informed consent. [2009 c 545 § 2.]

Reviser's note: *(1) Second Substitute Senate Bill No. 5346 became chapter 298, Laws of 2009.

***(2) Substitute Senate Bill No. 5891 became chapter 305, Laws of 2009.

Findings—2009 c 545: "The legislature finds that the principles for health care reform articulated by the president of the United States in his proposed federal fiscal year 2010 budget to the congress of the United States provide an opportunity for the state of Washington to be both a partner with, and a model for, the federal government in its health care reform efforts. The legislature further finds that the recommendations of the 2007 blue ribbon commission on health care costs and access are consistent with these principles." [2009 c 545 § 1.]

43.06.200 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in RCW 43.06.010, and 43.06.200 through 43.06.270 each as now or hereafter amended shall have the following meaning:

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010 as now or hereafter amended.

"Governor" means the governor of this state or, in case of his or her removal, death, resignation or inability to discharge the powers and duties of his or her office, then the person who may exercise the powers of governor pursuant to the Constitution and laws of this state relating to succession in office.

"Criminal offense" means any prohibited act for which any criminal penalty is imposed by law and includes any misdemeanor, gross misdemeanor, or felony. [2009 c 549 § 5022; 1977 ex.s. c 328 § 11; 1975-'76 2nd ex.s. c 108 § 26; 1969 ex.s. c 186 § 1.]

Energy supply emergencies: Chapter 43.21G RCW.

Additional notes found at www.leg.wa.gov

43.06.210 Proclamations—Generally—State of emergency. The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as

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now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. A proclamation of a state of emergency is effective upon the governor's signature. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected. [2013 c 21 § 1; 1977 ex.s. c 328 § 12; 1975-'76 2nd ex.s. c 108 § 27; 1969 ex.s. c 186 § 2.]

Energy supply emergencies: Chapter 43.21G RCW.

Additional notes found at www.leg.wa.gov

43.06.220 State of emergency—Powers of governor pursuant to proclamation. (1) The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(a) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(b) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(c) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(d) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

(e) The sale, purchase or dispensing of alcoholic beverages;

(f) The sale, purchase or dispensing of other commodities or goods, as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

(g) The use of certain streets, highways or public ways by the public; and

(h) Such other activities as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

(2) The governor after proclaiming a state of emergency and prior to terminating such may, in the area described by the proclamation, issue an order or orders concerning waiver or suspension of statutory obligations or limitations in the following areas:

(a) Liability for participation in interlocal agreements;

(b) Inspection fees owed to the department of labor and industries;

(c) Application of the family emergency assistance program;

(d) Regulations, tariffs, and notice requirements under the jurisdiction of the utilities and transportation commission;

(e) Application of tax due dates and penalties relating to collection of taxes;

(f) Permits for industrial, business, or medical uses of alcohol; and

(g) Such other statutory and regulatory obligations or limitations prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency, unless (i) authority to waive or suspend a specific statutory or regulatory obligation or limitation has been expressly granted to another statewide elected official, (ii) the waiver or suspension would conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or (iii) the waiver or suspension would conflict with the rights, under the First Amendment, of freedom of speech or of the people to peaceably assemble. The governor shall give as much notice as practical to legislative leadership and impacted local governments when issuing orders under this subsection (2)(g).

(3) In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through 43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he or she from time to time deems necessary.

(4) No order or orders concerning waiver or suspension of statutory obligations or limitations under subsection (2) of this section may continue for longer than thirty days unless extended by the legislature through concurrent resolution. If the legislature is not in session, the waiver or suspension of statutory obligations or limitations may be extended in writing by the leadership of the senate and the house of representatives until the legislature can extend the waiver or suspension by concurrent resolution. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

(5) Any person willfully violating any provision of an order issued by the governor under this section is guilty of a gross misdemeanor. [2019 c 472 § 2; 2008 c 181 § 1; 2003 c 53 § 222; 1969 ex.s. c 186 § 3.]

Findings—Intent—2019 c 472: "(1)(a) The legislature finds that the governor has broad authority to proclaim a state of emergency in any area of the state under RCW 43.06.010(12), and to exercise emergency powers during the emergency. These emergency powers have historically included the ability under RCW 43.06.220(1)(h) to temporarily waive or suspend statutory obligations by prohibiting compliance with statutory provisions during a proclaimed state of emergency when the governor reasonably believed it would help preserve and maintain life, health, property, or the public peace.

(b) The legislature further finds that, in response to issues arising from flooding events in 2007, RCW 43.06.220(2) was amended by chapter 181, Laws of 2008, to explicitly authorize the governor to temporarily waive or suspend a set of specifically identified statutes. This amendment has become problematic for subsequent emergency response activities because it has inadvertently narrowed the governor's ability to waive or suspend statutes under RCW 43.06.220(1)(h) by issuing orders temporarily prohibiting compliance with statutes not expressly identified in RCW 43.06.220(2).

(2) The legislature intends to allow the governor to immediately respond during a proclaimed state of emergency by temporarily waiving or suspending other statutory obligations or limitations prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance would in any way prevent, hinder, or delay necessary action in coping with the emergency." [2019 c 472 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

43.06.225 State of emergency—Health care law waivers and suspensions. (1)(a) If when declaring or amending a statewide state of emergency pursuant to RCW 43.06.010, the governor determines that the emergency demands immediate action by hospitals to prevent critical health system failures and ensure hospitals' ability to work with emergency management in responding to the emergency, the governor shall, either simultaneously or within five days of that determination, specify within the emergency order or amended emergency order which of the following health care-related statutes and substantially equivalent regulations shall be waived or suspended based on the nature of the declared emergency:

(i) RCW 70.38.105(4) (a), (e), and (h);

(ii) RCW 70.41.110, the following language only: "premises and";

(iii) RCW 70.41.230;

(iv) RCW 70.41.090 (3), (4), and (5);

(v) RCW 18.64.043(1), the following language only: "of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the secretary may approve,";

(vi) RCW 18.64.043(2)(a), the following language only: "of location";

(vii) RCW 18.64.043(3), the following language only: "and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.";

(viii) RCW 43.70.280(2), the following language only: "Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period."; and

(ix) RCW 18.360.010(11), the following language only: "physically present and is" and "in the facility. The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available."

(b) Hospitals that rely on waiver or suspension under (a) of this subsection shall notify the department within 14 days of initiating such reliance.

(c) Nothing in this section prevents the governor from waiving or suspending any statutes and substantially equivalent regulations outside the time frames established in this section. Additionally, the governor may waive or suspend any additional statutes, without limitation, as the governor deems necessary to address the emergency.

(2) Waivers and suspensions in subsection (1) of this section do not apply except to projects undertaken to provide or respond to surge capacity, including temporary increases in bed capacity, during the governor's declaration of a statewide state of emergency. Such projects and increases in bed capacity must comply with these statutory and regulatory provisions after the termination of the state of emergency. [2021 c 268 § 1.]

43.06.230 State of emergency—Destroying or damaging property or causing personal injury—Penalty. After the proclamation of a state of emergency as provided in RCW 43.06.010, any person who maliciously destroys or damages any real or personal property or maliciously injures another is guilty of a class B felony and upon conviction thereof shall be imprisoned in a state correctional facility for not less than two years nor more than ten years. [2003 c 53 § 223; 1992 c 7 § 39; 1969 ex.s. c 186 § 4.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.06.240 State of emergency—Disorderly conduct after emergency proclaimed—Penalty. After the proclamation of a state of emergency pursuant to RCW 43.06.010, every person who:

(1) Wilfully causes public inconvenience, annoyance, or alarm, or recklessly creates a risk thereof, by:

(a) engaging in fighting or in violent, tumultuous, or threatening behavior; or

(b) making an unreasonable noise or an offensively coarse utterance, gesture, or display, or addressing abusive language to any person present; or

(c) dispersing any lawful procession or meeting of persons, not being a peace officer of this state and without lawful authority; or

(d) creating a hazardous or physically offensive condition which serves no legitimate purpose; or

(2) Engages with at least one other person in a course of conduct as defined in subsection (1) of this section which is likely to cause substantial harm or serious inconvenience, annoyance, or alarm, and refuses or knowingly fails to obey an order to disperse made by a peace officer shall be guilty of disorderly conduct and be punished by imprisonment in the county jail for up to three hundred sixty-four days or fined not more than one thousand dollars or by both fine and imprisonment. [2011 c 96 § 27; 1969 ex.s. c 186 § 5.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

43.06.250 State of emergency—Refusing to leave public way or property when ordered—Penalty. Any person upon any public way or any public property, within the area described in the state of emergency, who is directed by a public official to leave the public way or public property and refuses to do so shall be guilty of a misdemeanor. [1969 ex.s. c 186 § 6.]

43.06.260 State of emergency—Prosecution of persons sixteen years or over as adults. After the proclamation of a state of emergency as provided in RCW 43.06.010 any person sixteen years of age or over who violates any provision of RCW 43.06.010, and 43.06.200 through 43.06.270 shall be prosecuted as an adult. [1969 ex.s. c 186 § 7.]

43.06.270 State of emergency—State militia or state patrol—Use in restoring order. The governor may in his or her discretion order the state militia pursuant to chapter 38.08 RCW or the state patrol to assist local officials to restore order in the area described in the proclamation of a state of emergency. [2009 c 549 § 5023; 1969 ex.s. c 186 § 9.]

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43.06.335 Washington quality award council—Organization—Duties. (1) The Washington quality award council shall be organized as a private, nonprofit corporation, in accordance with chapter 24.03A RCW and this section.

(2) The council shall oversee the governor's Washington state quality award program. The purpose of the program is to improve the overall competitiveness of the state's economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state's economy. The governor shall annually present the award to organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations, as determined by the council in consultation with the governor or appointed representative.

(3) The governor shall appoint a representative to serve on the board of directors of the council.

(4) The council shall establish a board of examiners, a recognition committee, and such other committees or subgroups as it deems appropriate to carry out its responsibilities.

(5) The council may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

(6) The council shall:

(a) Approve and announce award recipients;

(b) Approve guidelines to examine applicant organizations;

(c) Approve appointment of board of examiners; and

(d) Arrange appropriate annual awards and recognition for recipients. [2021 c 176 § 5219; 2004 c 245 § 1; 2000 c 216 § 1; 1998 c 245 § 86; 1997 c 329 § 1; 1994 c 306 § 1. Formerly RCW 43.07.290, 43.330.140.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

43.06.338 Washington marine resources advisory council. (Expires June 30, 2032.) (1) The Washington marine resources advisory council is created within the office of the governor.

(2) The Washington marine resources advisory council is composed of:

(a) The governor, or the governor's designee, who shall serve as the chair of the council;

(b) The commissioner of public lands, or the commissioner's designee;

(c) Two members of the senate, appointed by the president of the senate, one from each of the two largest caucuses in the senate;

(d) Two members of the house of representatives, appointed by the speaker of the house of representatives, one from each of the two largest caucuses in the house of representatives;

(e) One representative of federally recognized Indian tribes with reservations lying within or partially within counties bordering the outer coast, if selected by action of all of

the governing bodies of all federally recognized Indian tribes in such an area;

(f) One representative of federally recognized Indian tribes with reservations lying within or partially within counties bordering Puget Sound, if selected by action of all of the governing bodies of all federally recognized Indian tribes in such an area;

(g) One representative of each of the following sectors, appointed by the governor:

- (i) Commercial fishing;
- (ii) Recreational fishing;
- (iii) Marine recreation and tourism, other than fishing;
- (iv) Coastal shellfish growers;
- (v) Puget Sound shellfish growers;
- (vi) Marine businesses; and
- (vii) Conservation organizations;

(h) The chair of the Washington state conservation commission, or the chair's designee;

(i) One representative appointed by the largest statewide general agricultural association;

(j) One representative appointed by the largest statewide business association;

(k) The chair of the Washington coastal marine advisory council;

(l) The chair of the leadership council of the Puget Sound partnership;

(m) The director of the department of ecology;

(n) The director of the department of fish and wildlife; and

(o) The chair of the Northwest Straits commission.

(3) The governor shall invite the participation of the following entities as nonvoting members:

(a) The national oceanic and atmospheric administration; and

(b) Academic institutions conducting scientific research on ocean acidification.

(4) The governor shall make the appointments of the members under subsection (2)(g) of this section by September 1, 2013.

(5) Any member appointed by the governor may be removed by the governor for cause.

(6) A majority of the voting members of the Washington marine resources advisory council constitute a quorum for the transaction of business.

(7) The chair of the Washington marine resources advisory council shall schedule meetings and establish the agenda. The first meeting of the council must be scheduled by November 1, 2013. The council shall meet at least twice per calendar year. At each meeting the council shall afford an opportunity to the public to comment upon agenda items and other matters relating to the protection and conservation of the state's ocean resources.

(8) The Washington marine resources advisory council shall have the following powers and duties:

(a) To maintain a sustainable coordinated focus, including the involvement of and the collaboration among all levels of government and nongovernmental entities, the private sector, and citizens by increasing the state's ability to work to address impacts of ocean acidification;

(b) To advise and work with the University of Washington and others to conduct ongoing technical analysis on the

effects and sources of ocean acidification. The recommendations must identify a range of actions necessary to implement the recommendations and take into consideration the differences between in-state impacts and sources and out-of-state impacts and sources;

(c) To deliver recommendations to the governor and appropriate committees in the Washington state senate and house of representatives that must include, as necessary, any minority reports requested by a councilmember;

(d) To seek public and private funding resources necessary, and the commitment of other resources, for ongoing technical analysis to support the council's recommendations; and

(e) To assist in conducting public education activities regarding the impacts of and contributions to ocean acidification and regarding implementation strategies to support the actions adopted by the legislature.

(9) This section expires June 30, 2032. [2022 c 91 § 2; 2016 sp.s. c 27 § 1; 2013 c 318 § 4.]

Finding—Intent—2022 c 91: "The legislature finds that the marine resources advisory council, first established in 2013, continues to serve an important role in confronting the ongoing threat of ocean acidification in Washington. Through the marine resources advisory council and the work that it supports, Washington is an academic, government, and industry leader in efforts to address the impacts of ocean acidification. It is the intent of the legislature to support the continued critical ocean acidification work of the marine resources advisory council." [2022 c 91 § 1.]

43.06.350 Foreign nationals or citizens, convicted offenders—Transfers and sentences. Whenever any convicted offender, who is a citizen or national of a foreign country and is under the jurisdiction of the department of corrections, requests transfer to the foreign country of which he or she is a citizen or national, under a treaty on the transfer of offenders entered into between the United States and a foreign country, the governor or the governor's designee:

(1) May grant the approval of the state to such transfer as provided in the treaty; and

(2) Shall have, notwithstanding any provision of chapter 9.95 or 72.68 RCW, the plenary authority to fix the duration of the offender's sentence, if not otherwise fixed, whenever a fixed sentence is a condition precedent to transfer. [1983 c 255 § 9.]

43.06.400 Listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor. (1) Beginning in January 1984, and in January of every fourth year thereafter, the department of revenue must submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing must include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing must include but not be limited to the following revenue sources:

(a) Real and personal property tax exemptions under Title 84 RCW;

(b) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;

(c) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;

(d) Public utility tax exemptions and deductions under chapter 82.16 RCW;

(e) Food fish and shellfish tax exemptions under chapter 82.27 RCW;

(f) Leasehold excise tax exemptions under chapter 82.29A RCW;

(g) Motor vehicle and special fuel tax exemptions and refunds under chapter 82.38 RCW;

(h) Aircraft fuel tax exemptions under chapter 82.42 RCW;

(i) Motor vehicle excise tax exclusions under chapter 82.44 RCW; and

(j) Insurance premiums tax exemptions under chapter 48.14 RCW.

(2) The department of revenue must prepare the listing required by this section with the assistance of any other agencies or departments as may be required.

(3) The department of revenue must present the listing to the ways and means committees of each house in public hearings.

(4) Beginning in January 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means committees of each house and the appropriate standing committee of each house must hold public hearings and take appropriate action on the recommendations submitted by the governor.

(5) As used in this section, "tax exemption" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate.

(6) For purposes of the listing due in January 2012, the department of revenue does not have to prepare or update the listing with respect to any tax exemption that would not be likely to increase state revenue if the exemption was repealed or otherwise eliminated. [2013 c 225 § 605; 2011 1st sp.s. c 20 § 201; 1999 c 372 § 5; 1987 c 472 § 16; 1983 2nd ex.s. c 3 § 60.]

Effective date—2013 c 225: See note following RCW 82.38.010.

Review and termination of tax preferences: Chapter 43.136 RCW.

Additional notes found at www.leg.wa.gov

43.06.410 State internship program—Governor's duties. There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

(1) Consult with the secretary of state, the director of enterprise services, the commissioner of the employment security department, and representatives of labor;

(2) Encourage and assist agencies in developing intern positions;

(3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process

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shall give due regard to the responsibilities of the state to provide equal employment opportunities;

(4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

(5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and

(6) Develop guidelines for compensation of the participants. [2011 1st sp.s. c 43 § 455; 1993 c 281 § 47; 1985 c 442 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.06.415 State internship program coordinator—Rules. (1) The governor may appoint a coordinator to assist in administering the program created by RCW 43.06.410.

(2) The governor shall adopt such rules as are necessary to administer RCW 43.06.410. [1985 c 442 § 2.]

Additional notes found at www.leg.wa.gov

43.06.420 Undergraduate internship program—Executive fellows program. The state internship program shall consist of two individual internship programs as follows:

(1) An undergraduate internship program consisting of three-month to six-month positions for students working toward an undergraduate degree. In addition, a public sector employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency.

(2) An executive fellows program consisting of one-year to two-year placements for students who have successfully completed at least one year of graduate level work and have demonstrated a substantial interest in public sector management. Positions in this program shall be as assistants or analysts at the midmanagement level or higher. In addition, a public sector employee, whether working toward an advanced degree or not, or who has not successfully completed one year of graduate-level work as required by this subsection, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency. Participants in the executive fellows program who were not public employees prior to accepting a position in the program shall receive insurance and retirement credit commensurate with other employees of the employing agency. [1985 c 442 § 3.]

Additional notes found at www.leg.wa.gov

43.06.425 Interns—Effect of employment experience—Rights of reversion—Fringe benefits—Sick and vacation leave. The director of financial management or the director's designee shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous

position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees. [2011 1st sp.s. c 43 § 456; 2002 c 354 § 229; 1993 c 281 § 48; 1985 c 442 § 4.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

State internship program—Positions exempt from chapter 41.06 RCW: RCW 41.06.088.

Additional notes found at www.leg.wa.gov

43.06.435 Interns—Effect on full time equivalent staff position limitations. An agency shall not be deemed to exceed any limitation on full time equivalent staff positions on the basis of intern positions established under RCW 43.06.420. [1985 c 442 § 6.]

Additional notes found at www.leg.wa.gov

43.06.450 Cigarette tax contracts—Intent—Finding—Limitations. The legislature intends to further the government-to-government relationship between the state of Washington and Indians in the state of Washington by authorizing the governor to enter into contracts concerning the sale of cigarettes and vapor products. The legislature finds that these cigarette tax and vapor product tax contracts will provide a means to promote economic development, provide needed revenues for tribal governments and Indian persons, and enhance enforcement of the state's cigarette tax and vapor product tax, ultimately saving the state money and reducing conflict. In addition, it is the intent of the legislature that the negotiations and the ensuing contracts have no impact on the state's share of the proceeds under the master settlement agreement entered into on November 23, 1998, by the state. Chapter 235, Laws of 2001 and chapter 445, Laws of 2019 do not constitute a grant of taxing authority to any Indian tribe nor do they provide precedent for the taxation of non-Indians on fee land. [2019 c 445 § 301; 2001 c 235 § 1.]

Conflict with federal requirements—Effective date—2019 c 445: See RCW 82.25.900 and 82.25.901.

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

43.06.455 Cigarette tax contracts—Requirements—Use of revenue—Enforcement—Definitions. (1) The governor may enter into cigarette tax contracts concerning the sale of cigarettes. All cigarette tax contracts shall meet the requirements for cigarette tax contracts under this section. Except for cigarette tax contracts under RCW 43.06.460, the rates, revenue sharing, and exemption terms of a cigarette tax contract are not effective unless authorized in a bill enacted by the legislature.

(2) Cigarette tax contracts shall be in regard to retail sales in which Indian retailers make delivery and physical

transfer of possession of the cigarettes from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, contracts shall provide that retailers shall not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(3) A cigarette tax contract with a tribe shall provide for a tribal cigarette tax in lieu of all state cigarette taxes and state and local sales and use taxes on sales of cigarettes in Indian country by Indian retailers. The tribe may allow an exemption for sales to tribal members.

(4) Cigarette tax contracts shall provide that all cigarettes possessed or sold by a retailer shall bear a cigarette stamp obtained by wholesalers from a bank or other suitable stamp vendor and applied to the cigarettes. The procedures to be used by the tribe in obtaining tax stamps must include a means to assure that the tribal tax will be paid by the wholesaler obtaining such cigarettes. Tribal stamps must have serial numbers or some other discrete identification so that each stamp can be traced to its source.

(5) Cigarette tax contracts shall provide that retailers shall purchase cigarettes only from:

(a) Wholesalers or manufacturers licensed to do business in the state of Washington;

(b) Out-of-state wholesalers or manufacturers who, although not licensed to do business in the state of Washington, agree to comply with the terms of the cigarette tax contract, are certified to the state as having so agreed, and who do in fact so comply. However, the state may in its sole discretion exercise its administrative and enforcement powers over such wholesalers or manufacturers to the extent permitted by law;

(c) A tribal wholesaler that purchases only from a wholesaler or manufacturer described in (a), (b), or (d) of this subsection; and

(d) A tribal manufacturer.

(6) Cigarette tax contracts shall be for renewable periods of no more than eight years. A renewal may not include a renewal of the phase-in period.

(7) Cigarette tax contracts shall include provisions for compliance, such as transport and notice requirements, inspection procedures, stamping requirements, recordkeeping, and audit requirements.

(8) Tax revenue retained by a tribe must be used for essential government services. Use of tax revenue for subsidization of cigarette and food retailers is prohibited.

(9) The cigarette tax contract may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(10) The governor may delegate the power to negotiate cigarette tax contracts to the department of revenue. The department of revenue shall consult with the *liquor control board during the negotiations.

(11) Information received by the state or open to state review under the terms of a contract is subject to the provisions of RCW 82.32.330.

(12) It is the intent of the legislature that the *liquor control board and the department of revenue continue the division of duties and shared authority under chapter 82.24 RCW and therefore the *liquor control board is responsible for

enforcement activities that come under the terms of chapter 82.24 RCW.

(13) Each cigarette tax contract shall include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the contract should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the contract so allow. A contract shall provide for termination of the contract if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period. In addition, the contract shall include provisions delineating the respective roles and responsibilities of the tribe, the department of revenue, and the *liquor control board.

(14) For purposes of this section and RCW 43.06.460, 82.08.0316, 82.12.0316, and 82.24.295:

(a) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development;

(b) "Indian retailer" or "retailer" means (i) a retailer wholly owned and operated by an Indian tribe, (ii) a business wholly owned and operated by a tribal member and licensed by the tribe, or (iii) a business owned and operated by the Indian person or persons in whose name the land is held in trust; and

(c) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington. [2001 c 235 § 2.]

*Reviser's note: The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

43.06.460 Cigarette tax contracts—Eligible tribes—Tax rate. (1) The governor is authorized to enter into cigarette tax contracts with the Squaxin Island Tribe, the Nisqually Tribe, Tulalip Tribes, the Muckleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Yakama Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, the Upper Skagit Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Samish Indian Nation, the Quileute Tribe, the Kalispel Tribe, the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, the Makah Tribe, the Hoh Tribe, the Spokane Tribe, and the Shoalwater Bay Tribe. Each contract adopted under this section shall provide that the tribal cigarette tax rate be one hundred percent of the state cigarette and state and local sales and use taxes within three years of enacting the tribal tax and shall be set no lower than eighty percent of the state cigarette and state and local sales and use taxes during the three-year phase-in period. The three-year phase-in period shall be shortened by three months each quarter the number of cartons of nontribal manufactured cigarettes is at least ten percent or more than the quarterly average number of cartons of nontribal manufactured cigarettes from the six-month

period preceding the imposition of the tribal tax under the contract. Sales at a retailer operation not in existence as of the date a tribal tax under this section is imposed are subject to the full rate of the tribal tax under the contract. The tribal cigarette tax is in lieu of the state cigarette and state and local sales and use taxes, as provided in RCW 43.06.455(3).

(2) A cigarette tax contract under this section is subject to RCW 43.06.455. [2008 c 241 § 1; 2007 c 320 § 1; 2005 c 208 § 1; 2003 c 236 § 1; 2002 c 87 § 1; 2001 2nd sp.s. c 21 § 1; 2001 c 235 § 3.]

Additional notes found at www.leg.wa.gov

43.06.465 Cigarette tax agreement with Puyallup Tribe of Indians. (1) The governor may enter into a cigarette tax agreement with the Puyallup Tribe of Indians concerning the sale of cigarettes, subject to the limitations in this section. The legislature intends to address the uniqueness of the Puyallup Indian reservation and its selling environment through pricing and compliance strategies, rather than through the imposition of equivalent taxes. It is the legislature's intent (a) that an increase in prices through a flat tax will reduce much of the competitive advantage that has historically existed due to the discrepancy in the difference between state and tribal taxes, and (b) that the tribal retailers can remain in business under the changed circumstances. The governor may delegate the authority to negotiate a cigarette tax agreement with the Puyallup Tribe to the department of revenue. The department of revenue shall consult with the *liquor control board during the negotiations.

(2) Any agreement must require the tribe to impose a tax of eleven dollars and seventy-five cents on each carton of cigarettes, with ten packs a carton and twenty cigarettes per pack being the industry standard. This tax shall be prorated for cartons and packs that are nonstandard. This tribal tax is in lieu of the combined state and local sales and use taxes, and state cigarette taxes, and as such these state taxes are not imposed during the term of the agreement on any transaction governed by the agreement. The tribal tax shall increase or decrease by the same dollar amount as any increase or decrease in the state cigarette tax.

(3) The agreement must include a provision requiring the tribe to transmit thirty percent of the tribal tax revenue on all cigarette sales to the state. The funds shall be transmitted to the state treasurer on a quarterly basis for deposit by the state treasurer into the general fund. The remaining tribal tax revenue must be used for essential government services, as that term is defined in RCW 43.06.455.

(4) The agreement is limited to retail sales in which Indian retailers make delivery and physical transfer of possession of the cigarettes from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, agreements shall provide that retailers shall not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(5)(a) The agreement must include a provision to price and sell the cigarettes so that the retail selling price is not less than the price paid by the retailer for the cigarettes.

(b) The tribal tax is in addition to the retail selling price.

(c) The agreement must include a provision to assure the price paid to the retailer includes the tribal tax, as evidenced by the tribe's cigarette stamp.

(d) If the tribe is acting as a wholesaler to tribal retailers, the retail selling price must not be less than the price the tribe paid for such cigarettes plus the tribal tax, as evidenced by the tribe's cigarette stamp.

(6)(a) The agreement must include provisions regarding enforcement and compliance by the tribe in regard to enrolled tribal members who sell cigarettes and shall describe the individual and joint responsibilities of the tribe, the department of revenue, and the *liquor control board.

(b) The agreement must include provisions for tax administration and compliance, such as transport and notice requirements, inspection procedures, stamping requirements, recordkeeping, and audit requirements.

(c) The agreement must include provisions for sharing of information among the tribe, the department of revenue, and the *liquor control board.

(7) The agreement must provide that all cigarettes possessed or sold by a tribal retailer shall bear a tribal cigarette stamp obtained by wholesalers from a bank or other suitable stamp vendor and applied to the cigarettes. Tribal stamps must have serial numbers or some other discrete identification so that each stamp can be traced to its source.

(8) The agreement must provide that retailers shall purchase cigarettes only from wholesalers or manufacturers licensed to do business in the state of Washington.

(9) The agreement must be for a renewable period of no more than eight years.

(10) The agreement must include provisions to resolve disputes using a nonjudicial process, such as mediation, and shall include a dispute resolution protocol. The protocol shall include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the agreement should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the agreement so allow. An agreement must provide for termination of the agreement if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period.

(11) The agreement may not include any provisions that impact the state's share of the master settlement agreement, and as such this agreement does not authorize negotiation regarding a redistribution of the state's proceeds under the master settlement agreement.

(12) Information received by the state or open to state review under the terms of an agreement is subject to RCW 82.32.330.

(13) It is the intent of the legislature that the *liquor control board and the department of revenue continue the division of duties and shared authority under chapter 82.24 RCW.

(14) For purposes of this section:

(a) "Indian country" has the same meaning as in chapter 82.24 RCW.

(b) "Indian retailer" or "retailer" means (i) a retailer wholly owned and operated by an Indian tribe or (ii) a business wholly owned and operated by an enrolled tribal member and licensed by the tribe.

(c) "Indian tribe" or "tribe" means the Puyallup Tribe of Indians, which is a federally recognized Indian tribe located within the geographical boundaries of the state of Washington. [2005 c 11 § 2.]

*Reviser's note: The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Findings—Intent—2005 c 11: "In 2001, the legislature enacted Engrossed Substitute Senate Bill No. 5372, which authorized the governor to enter into cigarette contracts with fourteen Indian tribes. In subsequent sessions, the legislature increased to twenty-one the number of tribes with whom the governor may negotiate under the terms of RCW 43.06.460. The legislature finds that this effort has been effective, as measured by the success of the existing agreements.

The legislature further finds the agreements resolved decades of conflict between the state and tribes over the sale of contraband cigarettes to non-Indians; benefited the tribes through tribal tax revenues; benefited the state because cigarettes are stamped and taxed; enhanced public health because access to low-priced cigarettes is reduced; improved law and order; and reduced the competitive advantage gained through the sale of tax-free cigarettes.

The 2001 legislation and its later amendments did not encompass the Puyallup Tribe of Indians within its scope due to the very different nature of the cigarette trade on the Puyallup Indian reservation. The legislature therefore intends to address the special circumstances on the Puyallup Indian reservation by recognizing the substantial distinctions and enacting legislation authorizing a cigarette tax agreement with the tribe that differs from the contracts entered into under RCW 43.06.460. Section 2 of this act provides the governor authority to enter into an agreement and sets forth the general framework for the agreement." [2005 c 11 § 1.]

Additional notes found at www.leg.wa.gov

43.06.466 Cigarette tax agreement—Yakama Nation. (1) The legislature finds that entering into a cigarette tax agreement with the Yakama Nation is a positive step and that such an agreement will support a stable and orderly environment on the Yakima Reservation for regulation of cigarette sales. The legislature further finds that the very special circumstances of the Yakama Nation pursuant to the Treaty with the Yakamas of 1855 (12 Stat. 951) support a cigarette tax agreement that reflects those circumstances. The legislature also finds that the provisions of the agreement with the Yakama Nation authorized by chapter 228, Laws of 2008 are reasonably necessary to prevent fraudulent transactions and place a minimal burden on the Yakama Nation, pursuant to the United States supreme court's decision in *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980).

It is the intent of the legislature that the cigarette tax agreement with the Yakama Nation reflects the uniqueness of the Yakama Nation's Treaty through specific terms that govern pricing of cigarettes, tribal cigarette tax revenue, information sharing, and administration of the agreement.

(2) For purposes of this section:

(a) "Cigarette" has the same meaning as in chapter 82.24 RCW; and

(b) "Tribal retailer" means a cigarette retailer as that term is defined in RCW 82.24.010 that is licensed by and located within the jurisdiction of the Yakama Nation and is wholly owned by the Yakama Nation or any of its enrolled members.

(3) The governor may enter into a cigarette tax agreement with the Yakama Nation, a federally recognized Indian tribe located within the geographical boundaries of the state of Washington, concerning the sale of cigarettes, subject to the provisions of this section. The governor may delegate the

authority to negotiate the agreement to the department of revenue.

(4) The agreement must be for a renewable period of no more than eight years.

(5) All cigarettes possessed or sold by tribal retailers must be subject to the agreement, except cigarettes manufactured within the jurisdiction of the Yakama Nation by the Yakama Nation or its enrolled members.

(6) The agreement must allow the Yakama Nation to exempt its enrolled members from the tribal cigarette tax imposed under subsection (7) of this section.

(a) Sales of cigarettes exempt under this subsection must be subject to the requirements of subsection (9) of this section.

(b) The exemption must be provided only at the point of sale and reimbursement provided to the tribal retailer by the Yakama Nation.

(7) The agreement must require the Yakama Nation to impose and maintain in effect on the sale of cigarettes by tribal retailers a tax as provided in this subsection.

(a) The rate of tax will be expressed in dollars and cents and must be the percentage of tax imposed by the state under chapter 82.24 RCW for the period of the agreement as stated here:

- (i) Eighty percent during the first six years;
- (ii) Eighty-four percent during the seventh year; and
- (iii) Eighty-seven and six-tenths percent during the eighth year.

(b) The tax must be imposed on each carton, or portion of a carton, of cigarettes, with ten packs per carton and twenty cigarettes per pack being the industry standard, and prorated for cartons and packs that are not standard.

(c) The tax must be in lieu of the combined state and local sales and use taxes, and state cigarette taxes, and, as provided in RCW 82.24.302, 82.08.0316, and 82.12.0316, the taxes imposed by chapters 82.08, 82.12, and 82.24 RCW do not apply during the term of the agreement on any transaction governed by the agreement.

(d) Throughout the term of the agreement and any renewal of the agreement, the tax must increase or decrease in correspondence with the state cigarette tax by applying the percentages in (a) of this subsection.

(8) The revenue generated by the tax imposed under subsection (7) of this section must be used by the Yakama Nation for essential government services, as that term is defined in RCW 43.06.455.

(9) All cigarettes possessed or sold by a tribal retailer must bear a tribal cigarette tax stamp as provided in this subsection.

(a) The Yakama Nation may act as its own stamp vendor, subject to meeting reasonable requirements for internal controls.

(b) The stamps must have serial numbers or other discrete identification that allow stamps to be traced to their source.

(10) The price paid by the tribal retailer to the wholesaler must not be less than the total of the price paid by the Yakama Nation or other wholesaler and the tax imposed under subsection (7) of this section.

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(11) The retail selling price of cigarettes sold by tribal retailers must not be less than the price paid by them under subsection (10) of this section.

(12) Tribal retailers must not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(13) The authority and the individual and joint responsibility of the Yakama Nation, the department of revenue, and the *liquor control board for administration and enforcement must be specified in the agreement including, but not limited to, requirements regarding transport of cigarettes, keeping of records, reporting, notice, inspection, audit, and mutual exchange of information.

(a) Requirements must provide for sharing of information regarding transport of cigarettes in the state of Washington by the Yakama Nation or its enrolled members, reporting of information on sales to customers located outside the jurisdiction of the Yakama Nation, and authority for unannounced inspection by the state of tribal retailers to verify compliance with stamping and pricing provisions.

(b) Information received by the state or open to state review under the terms of the agreement is subject to RCW 82.32.330.

(14) The agreement must provide for resolution of disputes using a nonjudicial process, such as mediation, and establish a dispute resolution protocol that includes the following elements:

- (a) A procedure for notifying the other party that a violation has occurred;
- (b) A procedure for establishing whether a violation has in fact occurred;
- (c) An opportunity to correct the violation;
- (d) A procedure for terminating the agreement in the event of a failure to correct the violation, such termination subject to mediation should the terms of the agreement so allow; and
- (e) Termination of the agreement for cause.

(15) The agreement may not include any provisions that impact the state's share of the master settlement agreement or concern redistribution of the state's proceeds under the master settlement agreement.

(16) The department of revenue may share with the Yakama Nation tax information under RCW 82.32.330 that is necessary for the Yakama Nation's compliance with the agreement. [2008 c 228 § 1.]

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Additional notes found at www.leg.wa.gov

43.06.468 Raising the minimum legal age of sale in certain compacts—Consultations with federally recognized Indian tribes—Report to legislature. In recognition of the sovereign authority of tribal governments, the governor may seek government-to-government consultations with federally recognized Indian tribes regarding raising the minimum legal age of sale in compacts entered into pursuant to RCW 43.06.455, 43.06.465, 43.06.466, and 43.06.505 through 43.06.515. The office of the governor shall report to the appropriate committees of the legislature regarding the status of such consultations no later than December 1, 2020. [2019 c 445 § 307; 2019 c 15 § 11.]

Reviser's note: 2019 c 445 § 307 takes effect October 1, 2019; however, this session law amended 2019 c 15 § 11, which takes effect January 1, 2020.

Conflict with federal requirements—Effective date—2019 c 445: See RCW 82.25.900 and 82.25.901.

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

Effective date—2019 c 15: See note following RCW 26.28.080.

43.06.475 Timber harvest excise tax agreements. (1) The governor may enter into timber harvest excise tax agreements concerning the harvest of timber. All timber harvest excise tax agreements must meet the requirements for timber harvest excise tax agreements under this section. The terms of a timber harvest excise tax agreement are not effective unless the agreement is authorized in RCW 43.06.480.

(2) Timber harvest excise tax agreements shall be in regard to timber harvests on fee land within the exterior boundaries of the reservation of the Indian tribe and are not in regard to timber harvests on trust land or land owned by the tribe within the exterior boundaries of the reservation.

(3) The agreement must provide that the tribal tax shall be credited against the state and county taxes imposed under RCW 84.33.041 and 84.33.051.

(4) Tribal ordinances for timber harvest excise taxation, or other authorizing tribal laws, which implement the timber harvest excise tax agreement with the state, must incorporate or contain provisions identical to chapter 84.33 RCW that relate to the tax rates and measures, such as stumpage values.

(5) Timber harvest excise tax agreements must be for renewable periods of no more than eight years.

(6) Timber harvest excise tax agreements must include provisions for compliance, such as inspection procedures, recordkeeping, and audit requirements.

(7) Tax revenue retained by the tribe must be used for essential government services. Use of tax revenue for subsidization of timber harvesters is prohibited.

(8) The timber harvest excise tax agreement may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(9) The governor may delegate the power to negotiate the timber harvest excise tax agreements to the department of revenue.

(10) Information received by the state or open to state review under the terms of a timber harvest excise tax agreement is subject to the provisions of RCW 82.32.330. The department of revenue may enter into an information sharing agreement with the tribe to facilitate sharing information to improve tax collection.

(11) The timber harvest excise tax agreement must include dispute resolution procedures, contract termination procedures, and provisions delineating the respective roles and responsibilities of the tribe and the department of revenue.

(12) The timber harvest excise tax agreement must include provisions to require taxpayers to submit information that may be required by the department of revenue or tribe.

(13) For the purposes of this section:

(a) "Essential government services" means services such as forestland management; protection, enhancement, regulation, and stewardship of forested land; land consolidation; tribal administration; public facilities; fire; police; public

health; education; job services; sewer; water; environmental and land use; transportation; utility services; and public facilities serving economic development purposes as those terms are defined in RCW 82.14.370(3)(c);

(b) "Forestland" has the same meaning as in RCW 84.33.035;

(c) "Harvester" has the same meaning as in RCW 84.33.035;

(d) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington; and

(e) "Timber" has the same meaning as in RCW 84.33.035. [2007 c 69 § 2.]

Findings—Intent—2007 c 69: "The legislature finds that in certain areas of taxation, where both a tribe and the state have jurisdiction and where there are challenges to administering a tax, tax agreements between the state and a tribe are a sound approach to resolving issues and simplifying processes. The legislature specifically recognizes that in the area of the timber excise tax, within the boundaries of the Quinault Reservation, the state faces challenges due to access to land and access to taxpayers. The activity being taxed takes place entirely within the reservation and is regulated by the tribe and by the state. The legislature therefore finds that shifting from a state administered tax, to a tribal tax credited against the state tax, will bring benefits such as consistent taxation, improved forest practices and water quality, improved fisheries, and sustainability. The legislature intends to further the government-to-government relationship between the state of Washington and the Quinault Nation by authorizing the governor to enter into an agreement related to timber harvest excise taxes." [2007 c 69 § 1.]

43.06.480 Timber harvest excise tax agreements—Quinault Nation. (1) The governor is authorized to enter into a timber harvest excise tax agreement with the Quinault Nation. Agreements adopted under this section must provide that the tribal timber harvest excise tax rate be one hundred percent of the state timber harvest excise tax.

(2) A timber harvest excise tax agreement under this section is subject to RCW 43.06.475. [2007 c 69 § 3.]

Findings—Intent—2007 c 69: See note following RCW 43.06.475.

43.06.485 Senior policy advisor to the governor—State lead for economic development relating to the outdoor recreation sector of the state's economy. (1) Subject to the availability of amounts appropriated for this specific purpose, the governor must maintain a senior policy advisor to the governor to serve as a state lead on economic development issues relating to the outdoor recreation sector of the state's economy. The advisor must focus on promoting, increasing participation in, and increasing opportunities for outdoor recreation in Washington, with a particular focus on achieving economic development and job growth through outdoor recreation.

(2) The success of the advisor must be based on measurable results relating to economic development strategies that more deliberately grow employment and outdoor recreation businesses, including:

(a) Strategies for increasing the number of new jobs directly or indirectly related to outdoor recreation, with a short-term goal of increasing employment in the sector by ten percent above the one hundred ninety-nine thousand jobs estimated to be connected to outdoor recreation as of 2015; and

(b) Strategies for increasing the twenty-one billion dollars of consumer spending in Washington, and the four and

one-half billion dollars of spending from out-of-state visitors, estimated to be connected to outdoor recreation as of 2015. [2015 c 245 § 2.]

43.06.490 Cannabis agreements—Federally recognized Indian tribes—Tribal cannabis tax—Tax exemption. (1) The governor may enter into agreements with federally recognized Indian tribes concerning cannabis. Cannabis agreements may address any cannabis-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state relations. Such agreements may include, but are not limited to, the following provisions and subject matter:

- (a) Criminal and civil law enforcement;
- (b) Regulatory issues related to the commercial production, processing, sale, and possession of cannabis, and processed cannabis products, for both recreational and medical purposes;
- (c) Medical and pharmaceutical research involving cannabis;
- (d) Taxation in accordance with subsection (2) of this section;
- (e) Any tribal immunities or preemption of state law regarding the production, processing, or marketing of cannabis; and
- (f) Dispute resolution, including the use of mediation or other nonjudicial process.

(2)(a) Each cannabis agreement adopted under this section must provide for a tribal cannabis tax that is at least one hundred percent of the state cannabis excise tax imposed under RCW 69.50.535 and state and local sales and use taxes on sales of cannabis. Cannabis agreements apply to sales in which tribes, tribal enterprises, or tribal member-owned businesses (i) deliver or cause delivery to be made to or receive delivery from a cannabis producer, processor, or retailer licensed under chapter 69.50 RCW or (ii) physically transfer possession of the cannabis from the seller to the buyer within Indian country.

(b) The tribe may allow an exemption from tax for sales to the tribe, tribal enterprises, tribal member-owned businesses, or tribal members, on cannabis grown, produced, or processed within its Indian country, or for activities to the extent they are exempt under state or federal law from the state cannabis excise tax imposed under RCW 69.50.535 or state and local sales or use taxes on sales of cannabis. Medical cannabis products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by a federally recognized Indian tribe within its Indian country may be exempted from tax under the terms of an agreement entered into under this section.

(3) Any cannabis agreement relating to the production, processing, and sale of cannabis in Indian country, whether for recreational or medical purposes, must address the following issues:

- (a) Preservation of public health and safety;
 - (b) Ensuring the security of production, processing, retail, and research facilities; and
 - (c) Cross-border commerce in cannabis.
- (4) The governor may delegate the power to negotiate cannabis agreements to the state liquor and cannabis board. In conducting such negotiations, the state liquor and cannabis

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board must, when necessary, consult with the governor and/or the department of revenue.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Indian country" has the same meaning as in RCW 82.24.010.

(b) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(c) "Cannabis" means "cannabis," "cannabis concentrates," "cannabis-infused products," and "useable cannabis," as those terms are defined in RCW 69.50.101. [2022 c 16 § 33; 2015 c 207 § 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—Finding—2015 c 207: "The legislature intends to further the government-to-government relationship between the state of Washington and federally recognized Indian tribes in the state of Washington by authorizing the governor to enter into agreements concerning the regulation of marijuana [cannabis]. Such agreements may include provisions pertaining to: The lawful commercial production, processing, sale, and possession of marijuana [cannabis] for both recreational and medical purposes; marijuana [cannabis]-related research activities; law enforcement, both criminal and civil; and taxation. The legislature finds that these agreements will facilitate and promote a cooperative and mutually beneficial relationship between the state and the tribes regarding matters relating to the legalization of marijuana [cannabis], particularly in light of the fact that federal Indian law precludes the state from enforcing its civil regulatory laws in Indian country. Such cooperative agreements will enhance public health and safety, ensure a lawful and well-regulated marijuana [cannabis] market, encourage economic development, and provide fiscal benefits to both the tribes and the state." [2015 c 207 § 1.]

43.06.505 Vapor product tax contracts—Requirements. (1) The governor may enter into vapor product tax contracts concerning the sale of vapor products. All vapor product tax contracts must meet the requirements for vapor product tax contracts under this section.

(2) Vapor product tax contracts must be in regard to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by non-Indian retailers. In addition, contracts may address the legal age of sale for vapor products pursuant to section 11, chapter 15, Laws of 2019.

(3) A vapor product tax contract with a tribe must provide for a tribal vapor product tax in lieu of all state vapor product taxes and state and local sales and use taxes on sales of vapor products in Indian country by Indian retailers. The tribe may allow an exemption for sales to tribal members.

(4) Vapor product tax contracts must provide that retailers must purchase vapor products only from:

(a) Wholesalers or manufacturers licensed to do business in the state of Washington;

(b) Out-of-state wholesalers or manufacturers who, although not licensed to do business in the state of Washington, agree to comply with the terms of the vapor product tax contract, are certified to the state as having so agreed, and do in fact so comply. However, the state may in its sole discretion exercise its administrative and enforcement powers over such wholesalers or manufacturers to the extent permitted by law;

(c) A tribal wholesaler that purchases only from a wholesaler or manufacturer described in (a), (b), or (d) of this subsection; and

(d) A tribal manufacturer.

(5) Vapor product tax contracts must be for renewable periods of no more than eight years.

(6) Vapor product tax contracts must include provisions for compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(7) Tax revenue retained by a tribe must be used for essential government services. Use of tax revenue for subsidization of vapor products and food retailers is prohibited.

(8) The vapor product tax contract may include provisions to resolve disputes using a nonjudicial process, such as mediation.

(9) The governor may delegate the power to negotiate vapor product tax contracts to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations.

(10) Information received by the state or open to state review under the terms of a contract is subject to the provisions of RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.25 RCW and therefore the liquor and cannabis board is responsible for enforcement activities that come under the terms of chapter 82.25 RCW.

(12) Each vapor product tax contract must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the contract should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the contract so allow. A contract must provide for termination of the contract if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period. In addition, the contract must include provisions delineating the respective roles and responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

(13) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development.

(b) "Indian country" has the same meaning as provided in RCW 82.24.010.

(c) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe;

(ii) A business wholly owned and operated by a tribal member and licensed by the tribe; or

(iii) A business owned and operated by the Indian person or persons in whose name the land is held in trust.

(d) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(e) "Vapor products" has the same meaning as provided in RCW 82.25.005. [2019 c 445 § 302.]

Conflict with federal requirements—Effective date—2019 c 445: See RCW 82.25.900 and 82.25.901.

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

43.06.510 Vapor product tax contracts—Indian tribes. (1) The governor is authorized to enter into vapor product tax contracts with federally recognized Indian tribes located within the geographical boundaries of the state of Washington. Each contract adopted under this section must provide that the tribal vapor product tax rate be one hundred percent of the state vapor product tax and state and local sales and use taxes. The tribal vapor product tax is in lieu of the state vapor product tax and state and local sales and use taxes, as provided in RCW 43.06.505(3).

(2) A vapor product tax contract under this section is subject to RCW 43.06.505 and is separate from a cigarette tax contract subject to RCW 43.06.455 or 43.06.466. [2019 c 445 § 303.]

Conflict with federal requirements—Effective date—2019 c 445: See RCW 82.25.900 and 82.25.901.

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

43.06.515 Vapor product tax contracts—Puyallup tribe. (1) The governor may enter into a vapor product tax agreement with the Puyallup Tribe of Indians concerning the sale of vapor products, subject to the limitations in this section. The legislature intends to address the uniqueness of the Puyallup Indian reservation and its selling environment through pricing and compliance strategies, rather than through the imposition of equivalent taxes. The governor may delegate the authority to negotiate a vapor product tax agreement with the Puyallup Tribe to the department of revenue. The department of revenue must consult with the liquor and cannabis board during the negotiations. An agreement under this section is separate from an agreement under RCW 43.06.465.

(2) Any agreement must require the tribe to impose a tribal vapor product tax with a tax rate that is ninety percent of the state vapor product tax. This tribal tax is in lieu of the combined state and local sales and use taxes and the state vapor product tax, and as such these state taxes are not imposed during the term of the agreement on any transaction governed by the agreement. The tribal vapor product tax must increase or decrease at the time of any increase or decrease in the state vapor product tax so as to remain at a level that is ninety percent of the rate of the state vapor product tax.

(3) The agreement must include a provision requiring the tribe to transmit thirty percent of the tribal tax revenue on all vapor products sales to the state. The funds must be transmitted to the state treasurer on a quarterly basis for deposit by the state treasurer into the general fund. The remaining tribal tax revenue must be used for essential government services, as that term is defined in RCW 43.06.505.

(4) The agreement is limited to retail sales in which Indian retailers make delivery and physical transfer of possession of the vapor products from the seller to the buyer within Indian country, and are not in regard to transactions by

non-Indian retailers. In addition, agreements may address the legal age of sale for vapor products pursuant to section 11, chapter 15, Laws of 2019.

(5)(a) The agreement must include a provision to price and sell the vapor products so that the retail selling price is not less than the price paid by the retailer for the vapor products.

(b) The tribal tax is in addition to the retail selling price.

(c) The agreement must include a provision to assure the price paid to the retailer includes the tribal tax.

(d) If the tribe is acting as a distributor to tribal retailers, the retail selling price must not be less than the price the tribe paid for such vapor products plus the tribal tax.

(6)(a) The agreement must include provisions regarding enforcement and compliance by the tribe in regard to enrolled tribal members who sell vapor products and must describe the individual and joint responsibilities of the tribe, the department of revenue, and the liquor and cannabis board.

(b) The agreement must include provisions for tax administration and compliance, such as transport and notice requirements, inspection procedures, recordkeeping, and audit requirements.

(c) The agreement must include provisions for sharing of information among the tribe, the department of revenue, and the liquor and cannabis board.

(7) The agreement must provide that retailers must purchase vapor products only from distributors or manufacturers licensed to do business in the state of Washington.

(8) The agreement must be for a renewable period of no more than eight years.

(9) The agreement must include provisions to resolve disputes using a nonjudicial process, such as mediation, and must include a dispute resolution protocol. The protocol must include a procedure for notifying the other party that a violation has occurred, a procedure for establishing whether a violation has in fact occurred, an opportunity to correct such violation, and a provision providing for termination of the agreement should the violation fail to be resolved through this process, such termination subject to mediation should the terms of the agreement so allow. An agreement must provide for termination of the agreement if resolution of a dispute does not occur within twenty-four months from the time notification of a violation has occurred. Intervening violations do not extend this time period.

(10) Information received by the state or open to state review under the terms of an agreement is subject to RCW 82.32.330.

(11) It is the intent of the legislature that the liquor and cannabis board and the department of revenue continue the division of duties and shared authority under chapter 82.25 RCW.

(12) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Indian country" has the same meaning as provided in RCW 82.24.010.

(b) "Indian retailer" or "retailer" means:

(i) A retailer wholly owned and operated by an Indian tribe; or

(ii) A business wholly owned and operated by an enrolled tribal member and licensed by the tribe.

(c) "Indian tribe" or "tribe" means the Puyallup Tribe of Indians, which is a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

(d) "Vapor products" has the same meaning as provided in RCW 82.25.005. [2019 c 445 § 304.]

Conflict with federal requirements—Effective date—2019 c 445: See RCW 82.25.900 and 82.25.901.

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

43.06.520 State sales, use, and business and occupation taxes—Indian tribe compacts—Findings—Intent.

(1) The legislature intends to further the government-to-government relationship between the state of Washington and federally recognized Indian tribes in the state of Washington by authorizing the governor to enter into compacts concerning the state's retail sales, use, and business and occupation taxes on certain activities.

(2) The legislature finds that these compacts will benefit all Washingtonians by providing a means to promote economic development and providing needed revenues for tribal governments and Indian persons.

(3) The state and the tribes have a long-standing history of working together to develop cooperative agreements on taxation for cigarettes, fuel, timber, and cannabis. It is the legislature's intent, given the positive experiences from the nearly two decades of cooperation, to build on these successes and provide the governor with the authority to address state sales, use, and business and occupation taxes on certain activities.

(4) In addition, it is the legislature's intent that these compacts will have no impact on the taxation of any transaction that is the subject of other compacts, contracts, or agreements authorized elsewhere in this chapter.

(5) For the purposes of this section, "cannabis" has the meaning provided in RCW 69.50.101. [2022 c 16 § 34; 2020 c 132 § 1.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

43.06.523 State sales, use, and business and occupation taxes—Indian tribe compacts.

(1)(a) The governor may enter into compacts with tribes concerning revenue collected by the state from the state sales tax, state use tax, and certain state business and occupation taxes, to the extent these taxes are imposed on qualified transactions. All compacts must meet the requirements under this section.

(b)(i) Except with regard to the terms of a compacting tribe's qualified capital investment, the governor may delegate the authority to negotiate compacts to the department.

(ii) In negotiating the terms of a compacting tribe's qualified capital investment, the governor must be satisfied that the compacting tribe's qualified capital investment is substantially proportionate to the compacting tribe's estimated tax revenue under the compact as compared to qualified capital investments contained in other compacts. For purposes of estimating a compacting tribe's tax revenue under a compact, tax revenue from new development is not included in the estimate.

(2) Any compact authorized under this section must include provisions that allow the compacting tribe to receive,

beginning on the compact's implementation date, the following amounts of tax collected on qualified transactions and received by the state:

(a) One hundred percent of certain state business and occupation tax revenues;

(b) The first five hundred thousand dollars of the total amount of state sales tax and state use tax collected during each calendar year from taxpayers, regardless of whether the taxpayers meet the requirements of a new development. If this five hundred thousand dollar cap is reached during a calendar year, any amounts collected from taxpayers that do not meet the requirements of a new development will be deemed to have been collected and applied to the cap first, but only in the calendar month in which the cap is reached;

(c) The following amounts of state sales tax and state use tax collected during each calendar year from taxpayers meeting the requirements of a new development:

(i) Twenty-five percent of any amount over the cap described in (b) of this subsection (2); or

(ii) Sixty percent of any amount over the cap described in (b) of this subsection (2), if the compacting tribe has completed a qualified capital investment; and

(d) Beginning January 1st of the fourth calendar year following the signing of the compact, the following amounts of state sales tax and state use tax collected during each calendar year from taxpayers that do not meet the requirements of a new development:

(i) Twenty-five percent of any amount over the cap described in (b) of this subsection (2); or

(ii) Fifty percent of any amount over the cap described in (b) of this subsection (2), if the compacting tribe has completed a qualified capital investment.

(3) The parties to any compact must agree to include the following provisions in the compact:

(a) A process for determining when any qualified capital investment is complete;

(b) A process to verify compliance with the terms of the compact;

(c) A delineation of the respective roles and responsibilities of the compacting tribe and the department;

(d) A process to resolve disputes, including the use of a nonjudicial process;

(e) An agreement that the compact resolves all current and future disputes between the compacting tribe and state and local taxing authorities, while the compact is in effect, to the extent such disputes relate to the levying, assessment, and collection of taxes related to the following:

(i) Transactions between nonmembers, where such transactions are subject to any state sales tax, local sales tax, and any other taxes in effect or authorized as of June 11, 2020, except for any business and occupation tax under chapter 82.04 RCW other than certain state business and occupation taxes;

(ii) State and local use tax imposed on nonmembers and sourced to a location within the Indian country of the compacting tribe pursuant to RCW 82.32.730; and

(iii) State and local personal property taxes imposed on nonmembers;

(f) An agreement that in the event of a change in state tax laws that affects the negotiated terms of a compact, or a change in the department's interpretation regarding the prop-

erty taxation of nonmember-owned improvements on Indian trust land:

(i) The parties must discuss in good faith any changes in the compact or this section that may be appropriate to preserve the intended benefits of the compact; and

(ii) A compacting tribe may terminate the compact if the good faith discussions do not result in a mutually satisfactory resolution;

(g)(i) An agreement that the department must perform all functions related to the administration and collection of the taxes collected on qualified transactions. The department may not impose any charge on a compacting tribe for these services. However, the department may seek legislative appropriations to cover its administrative costs associated with compact negotiations and administration.

(ii) As part of the department's authority under (g)(i) of this subsection (3), the department will apply the provisions contained in Title 82 RCW insofar as they are applicable to the taxes at issue in any compact authorized under this section;

(h) An agreement that the compacting tribe will provide information the department determines is necessary to fulfill the department's tax administration obligations under the compact, including information related to parcel ownership and business operations in the compact covered area; and

(i) Terms specifying the duration of the compact, and any related terms.

(4)(a) A compacting tribe may examine department records related to the payment of tax amounts to the compacting tribe. The compacting tribe must agree to keep information obtained from the department pursuant to a compact confidential to the same extent as the department is required to keep that information confidential pursuant to RCW 82.32.330.

(b) Information received by the state or open to state review under the terms of a compact is deemed tax information under RCW 82.32.330.

(5) The amounts in subsection (2) of this section must be paid to the compacting tribe on a monthly basis within sixty days after the department receives the tax amounts.

(6) All refunds and credits the department issues to taxpayers of amounts previously paid to the compacting tribe under the terms of a compact will be charged to the compacting tribe.

(7) Funds dedicated under RCW 82.08.020 and 82.12.0201 to the performance audits of government account under RCW 43.09.475 are not reduced by any payment to the compacting tribe.

(8) The department may adopt rules as may be necessary to administer the provisions of this section.

(9) This section does not affect the depositing of state sales tax, state use tax, and certain state business and occupation tax into the general fund as required by RCW 82.32.380.

(10) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Certain state business and occupation tax" means the tax imposed in chapter 82.04 RCW with respect to any qualified transaction as defined in (o)(i) of this subsection (10).

(b) "Compact" means a compact authorized by this section.

(c)(i) "Compact covered area" means: (A) Trust land, whether located within or outside of the boundaries of the compacting tribe's reservation; and (B) fee land within the boundaries of the compacting tribe's reservation and under tribal or tribal-member ownership.

(ii) For purposes of this subsection (10)(c), "tribal or tribal-member ownership" means fee land with a greater than fifty percent ownership interest being held by any combination of the compacting tribe or its tribal members.

(iii) "Compact covered area" does not include any land that, as of June 11, 2020, was fee land in which one or more nonmembers held a majority ownership, but only with respect to:

(A) A business that was in operation on that land as of June 11, 2020, and continues to be in operation on that same land; or

(B) A substantially similar successor business to a business described in (c)(iii)(A) of this subsection (10) is in operation on that same land.

(d) "Compacting tribe" means, with respect to any specific compact, the tribe that is a party to the compact.

(e) "Department" means the department of revenue.

(f) "Implementation date" means the date, negotiated by the parties to the compact, on which the department is required to begin administering the terms of such compact.

(g) "Indian country" has the same meaning as provided in 18 U.S.C. Sec. 1151, as existing on June 11, 2020.

(h) "Indian reservation" means all lands, notwithstanding the issuance of any patent, within the boundaries of areas set aside by the United States for the use and occupancy of Indian tribes by treaty, law, or executive order, or otherwise designated or described "reservation" by any federal act, and that are currently recognized as "Indian reservations" by the United States department of the interior. The term applies to all land within the boundaries of the Indian reservation, regardless of whether the land is owned by nonmembers, tribal members, or an Indian tribe.

(i) "Indian tribe" or "tribe" means a federally recognized Indian tribe located at least partially within the geographical boundaries of the state of Washington and includes its enterprises, subsidiaries, and constituent parts.

(j) "Local sales tax" means any sales tax that a local taxing authority is authorized to impose under chapter 82.14 RCW, RCW 81.104.170, or any other provision of state law.

(k) "Local use tax" means any use tax that a local taxing authority is authorized to impose under chapter 82.14 RCW, RCW 81.104.170, or any other provision of state law.

(l) "New development" means, with respect to any specific compact and the compact covered area associated with that compact, a person that:

(i) Is subject to state sales tax or state use tax collection or payment obligations as a result of business activity within the compact covered area;

(ii) Conducts business operations in a structure within the compact covered area, and construction of that structure began on or after the date the compact is signed by the parties, but not including any such construction involving the renovation of or addition to a structure existing before the date the compact is signed by the parties; and

(iii) Has not previously been subject to state sales tax or state use tax collection or payment obligations as a result of

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that same business activity operated within a different structure located elsewhere within the compact covered area.

(m) "Nonmember" means, with respect to any specific compact:

(i) A natural person who is not a tribal member of the compacting tribe;

(ii) A tribe that is not the compacting tribe; or

(iii) Any entity where not more than fifty percent of the ownership interests are held by any combination of the compacting tribe or any tribal members of the compacting tribe.

(n) "Qualified capital investment" means a contribution to the development and construction of a project agreed to by the governor and the compacting tribe.

(o) "Qualified transaction" means:

(i) A retail sale subject to state sales tax, involving a seller and purchaser who are both nonmembers, and that is sourced to a location within the compact covered area pursuant to RCW 82.32.730; or

(ii) Any use by a nonmember upon which the state use tax is imposed and sourced to a location within the compact covered area pursuant to RCW 82.32.730.

(p) "State sales tax" means the tax imposed in RCW 82.08.020(1).

(q) "State use tax" means the tax imposed in RCW 82.12.020 at the rate in RCW 82.08.020(1).

(r) "Tribal member" means an enrolled member of a federally recognized tribe, or in the context of a marital community, the spouse of a tribal member of the compacting tribe. [2020 c 132 § 2.]

43.06.525 State sales, use, and business and occupation taxes—Indian tribe compacts—Effect on local taxes. Nothing in chapter 132, Laws of 2020 in any way limits, restricts, reduces, or affects local taxes authorized under chapter 82.14 RCW, RCW 81.104.170, Title 35, 36, or 84 RCW, or any other provision of state law authorizing a local tax. [2020 c 132 § 3.]

43.06.530 National 988 hotline and behavioral health crisis system coordinator. (Expires June 30, 2024.) (1) The governor shall appoint a 988 hotline and behavioral health crisis system coordinator to provide project coordination and oversight for the implementation and administration of the 988 crisis hotline, other requirements of chapter 302, Laws of 2021, and other projects supporting the behavioral health crisis system. The coordinator shall:

(a) Oversee the collaboration between the department of health and the health care authority in their respective roles in supporting the crisis call center hubs, providing the necessary support services for 988 callers, and establishing adequate requirements and guidance for their contractors to fulfill the requirements of chapter 302, Laws of 2021;

(b) Ensure coordination and facilitate communication between stakeholders such as crisis call center hub contractors, behavioral health administrative service organizations, county authorities, other crisis hotline centers, managed care organizations, and, in collaboration with the *state enhanced 911 coordination office, with 911 emergency communications systems;

(c) Review the development of adequate and consistent training for crisis call center personnel and, in coordination

with the *state enhanced 911 coordination office, for 911 operators with respect to their interactions with the crisis hotline center; and

(d) Coordinate implementation of other behavioral health initiatives among state agencies and educational institutions, as appropriate, including coordination of data between agencies.

(2) This section expires June 30, 2024. [2021 c 302 § 107.]

***Reviser's note:** The "state enhanced 911 coordination office" was renamed the "state 911 coordination office" by 2022 c 286 § 6 and 2022 c 203 § 9.

Findings—Intent—2021 c 302: See note following RCW 71.24.890.

Chapter 43.06A RCW OFFICE OF THE FAMILY AND CHILDREN'S OMBUDS

Sections

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43.06A.010 Office created—Purpose. There is hereby created an office of the family and children's ombuds within the office of the governor for the purpose of promoting public awareness and understanding of family and children services, identifying system issues and responses for the governor and the legislature to act upon, and monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children's services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The ombuds shall report directly to the governor and shall exercise his or her powers and duties independently of the secretary. [2013 c 23 § 71; 1996 c 131 § 2.]

Additional notes found at www.leg.wa.gov

43.06A.020 Ombuds—Appointment, term of office.

(1) Subject to confirmation by the senate, the governor shall appoint an ombuds who shall be a person of recognized judgment, independence, objectivity, and integrity, and shall be qualified by training or experience, or both, in family and children's services law and policy. Prior to the appointment, the governor shall consult with, and may receive recommendations from the committee, regarding the selection of the ombuds.

(2) The person appointed ombuds shall hold office for a term of three years and shall continue to hold office until

reappointed or until his or her successor is appointed. The governor may remove the ombuds only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term. [2013 c 23 § 72; 1998 c 288 § 7; 1996 c 131 § 3.]

Additional notes found at www.leg.wa.gov

43.06A.030 Duties. The ombuds shall perform the following duties:

(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services, juvenile justice, juvenile rehabilitation, and child early learning, and on the procedures for providing these services;

(2) Investigate, upon his or her own initiative or upon receipt of a complaint, an administrative act alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds; however, the ombuds may decline to investigate any complaint as provided by rules adopted under this chapter;

(3) Monitor the procedures as established, implemented, and practiced by the department of children, youth, and families to carry out its responsibilities in delivering family and children's services with a view toward appropriate preservation of families and ensuring children's health and safety;

(4) Review periodically the facilities and procedures of state institutions serving children, youth, and families, and state-licensed facilities or residences;

(5) Recommend changes in the procedures for addressing the needs of children, youth, and families;

(6) Submit annually to the oversight board for children, youth, and families created in RCW 43.216.015 and to the governor by November 1st a report analyzing the work of the department of children, youth, and families, including recommendations;

(7) Grant the oversight board for children, youth, and families access to all relevant records in the possession of the ombuds unless prohibited by law; and

(8) Adopt rules necessary to implement this chapter. [2018 c 58 § 77; 2017 3rd sp.s. c 6 § 112; 2013 c 23 § 73; 1996 c 131 § 4.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

43.06A.050 Confidentiality. The ombuds shall treat all matters under investigation, including the identities of service recipients, complainants, and individuals from whom information is acquired, as confidential, except as far as disclosures may be necessary to enable the ombuds to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Investigative records

of the office of the ombuds are confidential and are exempt from public disclosure under chapter 42.56 RCW. [2013 c 23 § 74; 2005 c 274 § 294; 1996 c 131 § 6.]

43.06A.060 Admissibility of evidence—Testimony regarding official duties. Neither the ombuds nor the ombuds's staff may be compelled, in any judicial or administrative proceeding, to testify or to produce evidence regarding the exercise of the official duties of the ombuds or of the ombuds's staff. All related memoranda, work product, notes, and case files of the ombuds's office are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This section shall not apply to the oversight board for children, youth, and families. [2017 3rd sp.s. c 6 § 812; 2013 c 23 § 75; 1998 c 288 § 1.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

43.06A.070 Release of identifying information. Identifying information about complainants or witnesses shall not be subject to any method of legal compulsion, nor shall such information be revealed to the oversight board for children, youth, and families or the governor except under the following circumstances: (1) The complainant or witness waives confidentiality; (2) under a legislative subpoena when there is a legislative investigation for neglect of duty or misconduct by the ombuds or ombuds's office when the identifying information is necessary to the investigation of the ombuds's acts; or (3) under an investigation or inquiry by the governor as to neglect of duty or misconduct by the ombuds or ombuds's office when the identifying information is necessary to the investigation of the ombuds's acts.

For the purposes of this section, "identifying information" includes the complainant's or witness's name, location, telephone number, likeness, social security number or other identification number, or identification of immediate family members. [2017 3rd sp.s. c 6 § 813; 2013 c 23 § 76; 1998 c 288 § 2.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

43.06A.080 Inapplicability of privilege in RCW 43.06A.060. The privilege described in RCW 43.06A.060 does not apply when:

(1) The ombuds or ombuds's staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;

(2) The ombuds or a member of the ombuds's staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk;

(3) The ombuds has been asked to provide general information regarding the general operation of, or the general processes employed at, the ombuds's office; or

(4) The ombuds or ombuds's staff member has direct knowledge of a failure by any person specified in RCW 26.44.030, including the state family and children's ombuds or any volunteer in the ombuds's office, to comply with RCW 26.44.030. [2013 c 23 § 77; 1998 c 288 § 3.]

Additional notes found at www.leg.wa.gov

43.06A.085 Liability for good faith performance—Privileged communications. (1) An employee of the office of the family and children's ombuds is not liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against an employee of the department, an employee of a contracting agency of the department, a foster parent, or a recipient of family and children's services for any communication made, or information given or disclosed, to aid the office of the family and children's ombuds in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by an ombuds, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege shall serve as a defense in any action in libel or slander. [2013 c 23 § 78; 2009 c 88 § 2; 1999 c 390 § 7.]

43.06A.090 Report of conduct warranting criminal or disciplinary proceedings. When the ombuds or ombuds's staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ombuds or ombuds's staff member shall report the matter, or cause a report to be made, to the appropriate authorities. [2013 c 23 § 79; 1998 c 288 § 4.]

Additional notes found at www.leg.wa.gov

43.06A.100 Communication with children in custody of department of children, youth, and families or part of a fatality investigation by the department of children, youth, and families—Access to information in possession or control of department of children, youth, and families or state institutions—Limitation on duty of office. (1) The department of children, youth, and families shall:

(a) Allow the ombuds or the ombuds's designee to communicate privately with any child in the custody of the department of children, youth, and families, or any child who is part of a near fatality investigation by the department of children, youth, and families, for the purposes of carrying out its duties under this chapter;

(b) Permit the ombuds or the ombuds designee physical access to state institutions serving children, and state licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(c) Upon the ombuds's request, grant the ombuds or the ombuds's designee the right to access, inspect, and copy all

relevant information, records, or documents in the possession or control of the department of children, youth, and families that the ombuds considers necessary in an investigation; and

(d) Grant the office of the family and children's ombuds unrestricted online access to the child welfare case management information system and the department of children, youth, and families data information system for the purpose of carrying out its duties under this chapter.

(2) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition.

(3) Nothing in this section creates a duty for the office of the family and children's ombuds under RCW 43.06A.030 as related to children in the care of an early learning program described in RCW 43.216.500 through 43.216.550, a licensed child care center, or a licensed child care home. [2017 3rd sp.s. c 6 § 810; 2015 c 199 § 2; 2013 c 23 § 80; 2008 c 211 § 3; 1999 c 390 § 5.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Short title—2015 c 199: See note following RCW 43.216.650.

43.06A.110 Child fatality review recommendations—Annual report. The office of the family and children's ombuds shall issue an annual report to the legislature on the status of the implementation of child fatality review recommendations. [2013 c 23 § 81; 2008 c 211 § 2.]

43.06A.900 Construction. Nothing in this chapter shall be construed to conflict with the duty to report specified in RCW 26.44.030. [1998 c 288 § 5.]

Additional notes found at www.leg.wa.gov

Chapter 43.06B RCW

OFFICE OF THE EDUCATION OMBUDS

Sections

43.06B.010	Office created—Purposes—Appointment—Regional education ombuds.
43.06B.020	Powers and duties.
43.06B.030	Liability for good faith performance—Privileged communications.
43.06B.040	Confidentiality.
43.06B.050	Annual reports.
43.06B.060	Public school antiharassment policies and strategies—Lead agency.
43.06B.900	Findings—Intent—2006 c 116.

Phone interpretation services—Posting vendor information on website: See RCW 28A.300.580.

43.06B.010 Office created—Purposes—Appointment—Regional education ombuds. (1) There is hereby created the office of the education ombuds within the office of the governor for the purposes of providing information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary education system, and advocating on behalf of elementary and secondary students.

(2)(a) The governor shall appoint an ombuds who shall be a person of recognized judgment, independence, objectiv-

ity, and integrity and shall be qualified by training or experience or both in the following areas:

(i) Public education law and policy in this state;

(ii) Dispute resolution or problem resolution techniques, including mediation and negotiation; and

(iii) Community outreach.

(b) The education ombuds may not be an employee of any school district, the office of the superintendent of public instruction, or the state board of education while serving as an education ombuds.

(3) Before the appointment of the education ombuds, the governor shall share information regarding the appointment to a six-person legislative committee appointed and comprised as follows:

(a) The committee shall consist of three senators and three members of the house of representatives from the legislature.

(b) The senate members of the committee shall be appointed by the president of the senate. Two members shall represent the majority caucus and one member the minority caucus.

(c) The house of representatives members of the committee shall be appointed by the speaker of the house of representatives. Two members shall represent the majority caucus and one member the minority caucus.

(4) If sufficient appropriations are provided, the education ombuds shall delegate and certify regional education ombuds. The education ombuds shall ensure that the regional ombuds selected are appropriate to the community in which they serve and hold the same qualifications as in subsection (2)(a) of this section. The education ombuds may not contract with the superintendent of public instruction, or any school, school district, or current employee of a school, school district, or the office of the superintendent of public instruction for the provision of regional ombuds services. [2013 c 23 § 82; 2006 c 116 § 3.]

43.06B.020 Powers and duties. The education ombuds shall have the following powers and duties:

(1) To develop parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements required by the superintendent of public instruction. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

(2) To provide information to students, parents, and interested members of the public regarding this state's public elementary and secondary education system;

(3) To identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;

(4) To identify and recommend strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;

(5) To refer complainants and others to appropriate resources, agencies, or departments;

(6) To facilitate the resolution of complaints made by parents and students with regard to the state's public elementary and secondary education system;

(7) To perform such other functions consistent with the purpose of the education ombuds; and

(8) To consult with representatives of the following organizations and groups regarding the work of the office of the education ombuds, including but not limited to:

- (a) The state parent teacher association;
- (b) Certificated and classified school employees;
- (c) School and school district administrators;
- (d) Parents of special education students;
- (e) Parents of English language learners;
- (f) The Washington state commission on Hispanic affairs;

(g) The Washington state commission on African American affairs;

(h) The Washington state commission on Asian Pacific American affairs; and

(i) The governor's office of Indian affairs. [2013 c 23 § 83; 2008 c 165 § 2; 2006 c 116 § 4.]

43.06B.030 Liability for good faith performance—Privileged communications. (1) Neither the education ombuds nor any regional educational ombuds are liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any student or employee of any school district, the office of the superintendent of public instruction, or the state board of education, for any communication made, or information given or disclosed, to aid the education ombuds in carrying out his or her duties and responsibilities, unless the same was done without good faith or maliciously. This subsection is not intended to infringe upon the rights of a school district to supervise, discipline, or terminate an employee for other reasons or to discipline a student for other reasons.

(3) All communications by the education ombuds or the ombuds's staff or designee, if reasonably related to the education ombuds's duties and responsibilities and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander. [2013 c 23 § 84; 2006 c 116 § 5.]

43.06B.040 Confidentiality. The education ombuds shall treat all matters, including the identities of students, complainants, and individuals from whom information is acquired, as confidential, except as necessary to enable the education ombuds to perform the duties of the office. Upon receipt of information that by law is confidential or privileged, the ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. [2013 c 23 § 85; 2006 c 116 § 6.]

43.06B.050 Annual reports. The education ombuds shall report on the work and accomplishment of the office and advise and make recommendations to the governor, the legislature, and the state board of education annually. The

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initial report to the governor, the legislature, and the state board of education shall be made by September 1, 2007, and there shall be annual reports by September 1st each year thereafter. The annual reports shall provide at least the following information:

(1) How the education ombuds's services have been used and by whom;

(2) Methods for the education ombuds to increase and enhance family and community involvement in public education;

(3) Recommendations to eliminate barriers and obstacles to meaningful family and community involvement in public education; and

(4) Strategies to improve the educational opportunities for all students in the state, including recommendations from organizations and groups provided in RCW 43.06B.020(8). [2013 c 23 § 86; 2006 c 116 § 7.]

43.06B.060 Public school antiharassment policies and strategies—Lead agency. In addition to duties assigned under RCW 43.06B.020, the office of the education ombuds shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies. [2013 c 23 § 87; 2010 c 239 § 3.]

Finding—Intent—2010 c 239: "The legislature finds that despite a recognized law prohibiting harassment, intimidation, and bullying of students in public schools and despite widespread adoption of antiharassment policies by school districts, harassment of students continues and has not declined since the law was enacted. Furthermore, students and parents continue to seek assistance against harassment, and schools need to disseminate more widely their antiharassment policies and procedures. The legislature intends to expand the tools, information, and strategies that can be used to combat harassment, intimidation, and bullying of students, and increase awareness of the need for respectful learning communities in all public schools." [2010 c 239 § 1.]

43.06B.900 Findings—Intent—2006 c 116. See note following RCW 28A.300.130.

Chapter 43.06C RCW OFFICE OF THE CORRECTIONS OMBUDS

Sections

- 43.06C.005 Intent.
- 43.06C.010 Definitions.
- 43.06C.020 Office created—Purpose.
- 43.06C.030 Appointment of ombuds—Term—Other employees.
- 43.06C.040 Duties—Investigations—Complaints.
- 43.06C.050 Access to facilities, inmates, records.
- 43.06C.060 Confidentiality of correspondence, communications, investigations.
- 43.06C.070 Civil immunity—Retaliatory actions.
- 43.06C.080 Unexpected fatality review team—Duties.

Reviser's note—Sunset Act application: The office of the corrections ombuds is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.425. RCW 43.06C.005 through 43.06C.070 are scheduled for future repeal under RCW 43.131.426.

43.06C.005 Intent. The legislature intends to create an independent and impartial office of the corrections ombuds to assist in strengthening procedures and practices that lessen the possibility of actions occurring within the department of corrections that may adversely impact the health, safety, welfare, and rehabilitation of offenders, and that will effectively reduce the exposure of the department to litigation. [2018 c 270 § 1.]

Sunset Act application: See note following chapter digest.

43.06C.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse" means any act or failure to act by a department employee, subcontractor, or volunteer which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to an inmate.

(2) "Corrections ombuds" or "ombuds" means the corrections ombuds, staff of the corrections ombuds, and volunteers with the office of the corrections ombuds.

(3) "Department" means the department of corrections.

(4) "Inmate" means a person committed to the physical custody of the department, including persons residing in a correctional institution or facility and persons received from another state, another state agency, a county, or the federal government.

(5) "Neglect" means a negligent act or omission by any department employee, subcontractor, or volunteer which caused, or may have caused, injury or death to an inmate.

(6) "Office" means the office of the corrections ombuds.

(7) "Secretary" means the secretary of the department of corrections.

(8) "Statewide family council" means the family council maintained by the department that is comprised of representatives from local family councils. [2018 c 270 § 3.]

Sunset Act application: See note following chapter digest.

43.06C.020 Office created—Purpose. Subject to the availability of amounts appropriated for this specific purpose, there is hereby created an office of corrections ombuds within the office of the governor for the purpose of providing information to inmates and their families; promoting public awareness and understanding of the rights and responsibilities of inmates; identifying system issues and responses for the governor and the legislature to act upon; and ensuring compliance with relevant statutes, rules, and policies pertaining to corrections facilities, services, and treatment of inmates under the jurisdiction of the department.

The ombuds reports directly to the governor and exercises his or her powers and duties independently of the secretary. [2018 c 270 § 2.]

Sunset Act application: See note following chapter digest.

43.06C.030 Appointment of ombuds—Term—Other employees. (1) Subject to the availability of amounts appropriated for this specific purpose, the governor shall appoint an ombuds who must be a person of recognized judgment, independence, objectivity, and integrity, and be qualified by training or experience in corrections law and policy. Prior to the appointment, the governor shall consult with, and may receive recommendations from, the appropriate committees of the legislature, delegates of the statewide family council as selected by the members of the council, and other relevant stakeholders, regarding the selection of the ombuds.

(2) The person appointed ombuds holds office for a term of three years and continues to hold office until reappointed or until his or her successor is appointed. The governor may remove the ombuds only for neglect of duty, misconduct, or

the inability to perform duties. Any vacancy must be filled by similar appointment for the remainder of the unexpired term.

(3) The ombuds may employ technical experts and other employees to complete the purposes of this chapter. [2018 c 270 § 4.]

Sunset Act application: See note following chapter digest.

43.06C.040 Duties—Investigations—Complaints.

(1) The ombuds shall:

(a) Establish priorities for use of the limited resources available to the ombuds;

(b) Maintain a statewide toll-free telephone number, a collect telephone number, a website, and a mailing address for the receipt of complaints and inquiries;

(c) Provide information, as appropriate, to inmates, family members, representatives of inmates, department employees, and others regarding the rights of inmates;

(d) Provide technical assistance to support inmate participation in self-advocacy;

(e) Monitor department compliance with applicable federal, state, and local laws, rules, regulations, and policies as related to the health, safety, welfare, and rehabilitation of inmates;

(f) Monitor and participate in legislative and policy developments affecting correctional facilities;

(g) Establish a statewide uniform reporting system to collect and analyze data related to complaints received by the ombuds regarding the department;

(h) Establish procedures to receive, investigate, and resolve complaints;

(i) Establish procedures to gather stakeholder input into the ombuds' activities and priorities, which must include at a minimum quarterly public meetings;

(j) Submit annually to the governor's office, the legislature, and the statewide family council, by November 1st of each year, a report that includes, at a minimum, the following information:

(i) The budget and expenditures of the ombuds;

(ii) The number of complaints received and resolved by the ombuds;

(iii) A description of significant systemic or individual investigations or outcomes achieved by the ombuds during the prior year;

(iv) Any outstanding or unresolved concerns or recommendations of the ombuds; and

(v) Input and comments from stakeholders, including the statewide family council, regarding the ombuds' activities during the prior year; and

(k) Adopt and comply with rules, policies, and procedures necessary to implement this chapter.

(2)(a) The ombuds may initiate and attempt to resolve an investigation upon his or her own initiative, or upon receipt of a complaint from an inmate, a family member, a representative of an inmate, a department employee, or others, regarding any of the following that may adversely affect the health, safety, welfare, and rights of inmates:

(i) Abuse or neglect;

(ii) Department decisions or administrative actions;

(iii) Inactions or omissions;

(iv) Policies, rules, or procedures; or

(v) Alleged violations of law by the department that may adversely affect the health, safety, welfare, and rights of inmates.

(b) Prior to filing a complaint with the ombuds, a person shall have reasonably pursued resolution of the complaint through the internal grievance, administrative, or appellate procedures with the department. However, in no event may an inmate be prevented from filing a complaint more than ninety business days after filing an internal grievance, regardless of whether the department has completed the grievance process. This subsection (2)(b) does not apply to complaints related to threats of bodily harm including, but not limited to, sexual or physical assaults or the denial of necessary medical treatment.

(c) The ombuds may decline to investigate any complaint as provided by the rules adopted under this chapter.

(d) If the ombuds does not investigate a complaint, the ombuds shall notify the complainant of the decision not to investigate and the reasons for the decision.

(e) The ombuds may not investigate any complaints relating to an inmate's underlying criminal conviction.

(f) The ombuds may not investigate a complaint from a department employee that relates to the employee's employment relationship with the department or the administration of the department, unless the complaint is related to the health, safety, welfare, and rehabilitation of inmates.

(g) The ombuds must attempt to resolve any complaint at the lowest possible level.

(h) The ombuds may refer complainants and others to appropriate resources, agencies, or departments.

(i) The ombuds may not levy any fees for the submission or investigation of complaints.

(j) The ombuds must remain neutral and impartial and may not act as an advocate for the complainant or for the department.

(k) At the conclusion of an investigation of a complaint, the ombuds must render a public decision on the merits of each complaint, except that the documents supporting the decision are subject to the confidentiality provisions of RCW 43.06C.060. The ombuds must communicate the decision to the inmate, if any, and to the department. The ombuds must state its recommendations and reasoning if, in the ombuds' opinion, the department or any employee thereof should:

- (i) Consider the matter further;
- (ii) Modify or cancel any action;
- (iii) Alter a rule, practice, or ruling;
- (iv) Explain in detail the administrative action in question; or

(v) Rectify an omission.

(l) If the ombuds so requests, the department must, within the time specified, inform the ombuds about any action taken on the recommendations or the reasons for not complying with the recommendations.

(m) If the ombuds believes, based on the investigation, that there has been or continues to be a significant inmate health, safety, welfare, or rehabilitation issue, the ombuds must report the finding to the governor and the appropriate committees of the legislature.

(n) Before announcing a conclusion or recommendation that expressly, or by implication, criticizes a person or the department, the ombuds shall consult with that person or the

department. The ombuds may request to be notified by the department, within a specified time, of any action taken on any recommendation presented. The ombuds must notify the inmate, if any, of the actions taken by the department in response to the ombuds' recommendations.

(3) This chapter does not require inmates to file a complaint with the ombuds in order to exhaust available administrative remedies for purposes of the prison litigation reform act of 1995, P.L. 104-134. [2018 c 270 § 5.]

Sunset Act application: See note following chapter digest.

43.06C.050 Access to facilities, inmates, records. (1)

The ombuds must have reasonable access to correctional facilities at all times necessary to conduct a full investigation of an incident of abuse or neglect. This authority includes the opportunity to interview any inmate, department employee, or other person, including the person thought to be the victim of such abuse, who might be reasonably believed by the facility to have knowledge of the incident under investigation. Such access must be afforded, upon request by the ombuds, when:

(a) An incident is reported or a complaint is made to the office;

(b) The ombuds determines there is probable cause to believe that an incident has or may have occurred; or

(c) The ombuds determines that there is or may be imminent danger of serious abuse or neglect of an inmate.

(2) The ombuds must have reasonable access to department facilities, including all areas which are used by inmates, all areas which are accessible to inmates, and to programs for inmates at reasonable times, which at a minimum must include normal working hours and visiting hours. This access is for the purpose of:

(a) Providing information about individual rights and the services available from the office, including the name, address, and telephone number of the office;

(b) Monitoring compliance with respect to the rights and safety of inmates; and

(c) Inspecting, viewing, photographing, and video recording all areas of the facility which are used by inmates or are accessible to inmates.

(3) Access to inmates includes the opportunity to meet and communicate privately and confidentially with individuals regularly, both formally and informally, by telephone, mail, and in person.

(4) The ombuds has the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the ombuds considers necessary in an investigation of a complaint filed under this chapter, and the department must assist the ombuds in obtaining the necessary releases for those documents which are specifically restricted or privileged for use by the ombuds.

(5) Following notification from the ombuds with a written demand for access to agency records, the delegated department staff must provide the ombuds with access to the requested documentation not later than twenty business days after the ombuds' written request for the records. Where the records requested by the ombuds pertain to an inmate death, threats of bodily harm including, but not limited to, sexual or physical assaults, or the denial of necessary medical treat-

ment, the records shall be provided within five days unless the ombuds consents to an extension of that time frame.

(6) Upon notice and a request by the ombuds, a state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by the ombuds must provide the ombuds with access to such records.

(7) The ombuds must work with the department to minimize disruption to the operations of the department due to ombuds activities and must comply with the department's security clearance processes, provided those processes do not impede the activities outlined in this section. [2018 c 270 § 6.]

Sunset Act application: See note following chapter digest.

43.06C.060 Confidentiality of correspondence, communications, investigations. (1) Correspondence and communication with the office is confidential and must be protected as privileged correspondence in the same manner as legal correspondence or communication.

(2) The office shall establish confidentiality rules and procedures for all information maintained by the office.

(3) The ombuds shall treat all matters under investigation, including the identities of recipients of ombuds services, complainants, and individuals from whom information is acquired, as confidential, except as far as disclosures may be necessary to enable the ombuds to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law or as authorized by subsection (4) of this section. All records exchanged and communications between the office of the corrections ombuds and the department to include the investigative record are confidential and are exempt from public disclosure under chapter 42.56 RCW.

(4) To the extent the ombuds reasonably believes necessary, the ombuds:

(a) Must reveal information obtained in the course of providing ombuds services to prevent reasonably certain death or substantial bodily harm; and

(b) May reveal information obtained in the course of providing ombuds services to prevent the commission of a crime.

(5) If the ombuds believes it is necessary to reveal investigative records for any of the reasons outlined in *section 4 of this act, the ombuds shall provide a copy of what they intend to disclose to the department for review and application of legal exemptions prior to releasing to any other persons. If the ombuds receives personally identifying information about individual corrections staff during the course of an investigation that the ombuds determines is unrelated or unnecessary to the subject of the investigation or recommendation for action, the ombuds will not further disclose such information. If the ombuds determines that such disclosure is necessary to an investigation or recommendation, the ombuds will contact the staff member as well as the bargaining unit representative before any disclosure. [2018 c 270 § 7.]

***Reviser's note:** The reference to "section 4 of this act" appears to be erroneous. "Subsection (4) of this section" was apparently intended.

Sunset Act application: See note following chapter digest.

43.06C.070 Civil immunity—Retaliatory actions. (1) A civil action may not be brought against any employee of the office for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against a department employee, subcontractor, or volunteer, an inmate, or a family member or representative of an inmate for any communication made, or information given or disclosed, to aid the office in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith.

(3) This section is not intended to infringe on the rights of an employer to supervise, discipline, or terminate an employee for other reasons. [2018 c 270 § 8.]

Sunset Act application: See note following chapter digest.

43.06C.080 Unexpected fatality review team—Duties. (1) The ombuds or the ombuds' designee shall serve as a member of the unexpected fatality review team convened under chapter 72.09 RCW.

(2) The department shall:

(a) Permit the ombuds or the ombuds' designee physical access to state institutions serving incarcerated individuals and state-licensed facilities or residences for the purposes of carrying out its duties under this chapter; and

(b) Upon the ombuds' request, grant the ombuds or the ombuds' designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the ombuds considers necessary in an investigation.

(3) The office shall issue an annual report to the legislature on the status of the implementation of unexpected fatality review recommendations. [2021 c 139 § 2.]

Chapter 43.06D RCW OFFICE OF EQUITY

Sections

43.06D.010	Definitions.
43.06D.020	Office established—Purpose.
43.06D.030	Appointment of director—Duties—Other employees.
43.06D.040	Duties—Reports.
43.06D.050	Authority.
43.06D.060	Washington state patrol diversity, equity, and inclusion strategic recruitment and retention plan—Oversight.
43.06D.900	Findings—Intent—2020 c 332.
43.06D.901	Construction—2020 c 332.

43.06D.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means every state executive office, agency, department, or commission.

(2) "Director" means the director of the Washington state office of equity.

(3) "Disaggregated data" means data that has been broken down by appropriate subcategories.

(4) "Equity lens" means providing consideration to the characteristics listed in RCW 49.60.030, as well as immigra-

tion status and language access, to evaluate the equitable impacts of an agency's policy or program.

(5) "Office" means the Washington state office of equity. [2020 c 332 § 2.]

43.06D.020 Office established—Purpose. (1) The Washington state office of equity is established within the office of the governor for the purpose of promoting access to equitable opportunities and resources that reduce disparities, and improve outcomes statewide across state government.

(2) The office envisions everyone in Washington having full access to the opportunities and resources they need to flourish and achieve their full potential.

(3) The work of the office must:

(a) Be guided by the following principles of equity:

(i) Equity requires developing, strengthening, and supporting policies and procedures that distribute and prioritize resources to those who have been historically and currently marginalized, including tribes;

(ii) Equity requires the elimination of systemic barriers that have been deeply entrenched in systems of inequality and oppression; and

(iii) Equity achieves procedural and outcome fairness, promoting dignity, honor, and respect for all people;

(b) Complement and not supplant the work of the statutory commissions. [2020 c 332 § 3.]

Effective date—2020 c 332 § 3: "Section 3 of this act takes effect July 1, 2020." [2020 c 332 § 11.]

43.06D.030 Appointment of director—Duties—Other employees. (1) The office is administered by a director, who is appointed by the governor with advice and consent of the senate. The director shall report to the governor. The director must receive a salary as fixed by the governor in accordance with RCW 43.03.040.

(2) The director shall:

(a) Employ and supervise staff as necessary to carry out the purpose of this chapter and the duties of the office; and

(b) Oversee the administration, programs, and policies of the office in accordance with the principles in RCW 43.06D.020. [2020 c 332 § 4.]

43.06D.040 Duties—Reports. (1) The office shall work to facilitate policy and systems change to promote equitable policies, practices, and outcomes through:

(a) **Agency decision making.** The office shall assist agencies in applying an equity lens in all aspects of agency decision making, including service delivery, program development, policy development, and budgeting. The office shall provide assistance by:

(i) Facilitating information sharing between agencies around diversity, equity, and inclusion issues;

(ii) Convening work groups as needed;

(iii) Developing and providing assessment tools for agencies to use in the development and evaluation of agency programs, services, policies, and budgets;

(iv) Training agency staff on how to effectively use the assessment tools developed under (a)(iii) of this subsection, including developing guidance for agencies on how to apply an equity lens to the agency's work when carrying out the agency's duties under this chapter;

(v) Developing a form that will serve as each agency's diversity, equity, and inclusion plan, required to be submitted by all agencies under *section 7 of this act, for each agency to report on its work in the area of diversity, equity, and inclusion. The office must develop the format and content of the plan and determine the frequency of reporting. The office must post each agency plan on the dashboard referenced in (d) of this subsection;

(vi) Maintaining an inventory of agency work in the area of diversity, equity, and inclusion; and

(vii) Compiling and creating resources for agencies to use as guidance when carrying out the requirements under *section 7 of this act.

(b) **Community outreach and engagement.** The office shall staff the community advisory board created under *section 6 of this act and may contract with commissions or other entities with expertise in order to identify policy and system barriers, including language access, to meaningful engagement with communities in all aspects of agency decision making.

(c) **Training on maintaining a diverse, inclusive, and culturally sensitive workforce.** The office shall collaborate with the office of financial management and the department of enterprise services to develop policies and provide technical assistance and training to agencies on maintaining a diverse, inclusive, and culturally sensitive workforce that delivers culturally sensitive services.

(d) **Data maintenance and establishing performance metrics.** The office shall:

(i) Collaborate with the office of financial management and agencies to:

(A) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities, except as provided under (d)(i)(D) of this subsection;

(B) Create statewide and agency-specific process and outcome measures to show performance:

(I) Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing disparities; and

(II) Taking into consideration community feedback from the **community advisory board on whether the performance measures established accurately measure the effectiveness of agency programs and services in the communities served;

(C) Create an online performance dashboard to publish state and agency performance measures and outcomes; and

(D) Identify additional subcategories in workforce data for disaggregation in order to track disparities in public employment; and

(ii) Coordinate with the office of privacy and data protection to address cybersecurity and data protection for all data collected by the office.

(e) **Accountability.** The office shall:

(i) Publish a report for each agency detailing whether the agency has met the performance measures established pursuant to (d)(i) of this subsection and the effectiveness of agency programs and services on reducing disparities. The report must include the agency's strengths and accomplishments, areas for continued improvement, and areas for corrective

action. The office must post each report on the dashboard referenced in (d) of this subsection;

(ii) Establish a process for the office to report on agency performance in accordance with (e)(i) of this subsection and a process for agencies to respond to the report. The agency's response must include the agency's progress on performance, the agency's action plan to address areas for improvement and corrective action, and a timeline for the action plan; and

(iii) Establish procedures to hold agencies accountable, which may include conducting performance reviews related to agency compliance with office performance measures.

(2) By October 31, 2022, and every year thereafter, the office shall report to the governor and the legislature. The report must include a summary of the office's work, including strengths and accomplishments, an overview of agency compliance with office standards and performance measures, and an equity analysis of the makeup of the community advisory board established in *section 6 of this act to ensure that it accurately reflects historically and currently marginalized groups.

(3) The director and the office shall review the final recommendations submitted pursuant to section 221, chapter 415, Laws of 2019, by the task force established under section 221, chapter 415, Laws of 2019, and report back to the governor and the legislature with any additional recommendations necessary for the office to carry out the duties prescribed under this chapter. [2020 c 332 § 5.]

Reviser's note: *(1) Sections 6 and 7 of this act were vetoed.

***(2) The community advisory board was created in 2020 c 332 § 6, which was vetoed.

43.06D.050 Authority. The office may:

- (1) Provide technical assistance to agencies;
- (2) Conduct research projects, as needed, provided that no research project is proposed or authorizes funding without consideration of the business case for the project including a review of the total cost of the project, similar projects conducted in the state, and alternatives analyzed;
- (3) Conduct policy analyses and provide a forum where ideas and issues related to diversity, equity, and inclusion plans, policies, and standards can be reviewed;
- (4) Develop policy positions and legislative proposals;
- (5) Consider, on an ongoing basis, ways to promote investments in enterprise-level diversity, equity, and inclusion projects that will result in service improvements and cost efficiency;
- (6) Fulfill external data requests, as resources allow; and
- (7) Receive and solicit gifts, grants, and endowments from public or private sources that are made for the use or benefit of the office and to expend the same or any income therefrom according to their terms and this chapter. The director must report funds received from private sources to the office of financial management on a regular basis. Funds received from private sources may not be applied to reduce or substitute the office's budget as appropriated by the legislature, but must be applied and expended toward projects and functions authorized by this chapter that were not funded by the legislature. [2020 c 332 § 8.]

43.06D.060 Washington state patrol diversity, equity, and inclusion strategic recruitment and retention

plan—Oversight. (Expires June 30, 2032.) (1) Consistent with its purpose of promoting access to equitable opportunities and resources to reduce disparities, the Washington state office of equity shall provide oversight for the development and ongoing implementation of the Washington state patrol's diversity, equity, and inclusion strategic recruitment and retention plan.

(2) To accomplish this purpose, the office of equity shall work with the department of enterprise services, which will run and oversee a competitive procurement process to select and hire an independent, expert consultant to:

(a) Collect benchmark demographic data on the composition of the current Washington state patrol workforce, including applicants in the recruitment process, people in trooper academy classes, and new hires across positions in the agency including, and not limited to, applicants referred for interview; applicants referred for hire; applicant to hire ratios; applicants referred for psychological testing; applicant pass to fail ratios; and turnover rate. In addition, this task must include comparative demographic data for other law enforcement training classes within the state;

(b) Conduct a study of the labor force available for the commissioned and noncommissioned staff of the state patrol, with a focus on the availability of black, indigenous, Latino, Asian, and other groups currently underrepresented in the state patrol workforce;

(c) Using the results of the labor force availability study and Washington state patrol recruitment and retention demographic benchmark data, establish goals for the demographic composition of the state patrol workforce and a plan for reaching the goals;

(d) Develop agency-specific process and outcome measures of performance, taking into consideration community feedback on whether the performance measures established accurately measure the effectiveness of agency programs and services in the communities served;

(e) Recommend effective agency programs and services to reduce disparities across the agency;

(f) Evaluate and report on progress in the implementation of the diversity, equity, and inclusion strategic recruitment and retention plan developed for the Washington state patrol in 2021;

(g) In coordination with the Washington state patrol, annually update the diversity, equity, and inclusion strategic recruitment and retention plan to reflect activities completed, new strategies, and next steps;

(h) Report biannually to the governor and appropriate committees of the legislature on the composition of the current Washington state patrol workforce compared to established benchmarks and goals; and

(i) Otherwise assist the office of equity in monitoring and reporting the Washington state patrol's implementation of the diversity, equity, and inclusion strategic recruitment and retention plan.

(3) The office is directed to complete the following work in accordance with RCW 43.06D.040:

(a) Provide technical assistance to the Washington state patrol regarding best practices to effectively foster an equitable, just, diverse workforce;

(b) Publish the Washington state patrol's diversity, equity, and inclusion strategic recruitment and retention plan on its performance dashboard;

(c) Report the Washington state patrol's performance on the office's performance dashboard, providing for a process for the Washington state patrol to respond to the report;

(d) Establish accountability procedures for the Washington state patrol, which may include conducting performance reviews related to state patrol compliance with office performance measures consistent with RCW 43.06D.040;

(e) Report annually to the governor and appropriate committees of the legislature on the Washington state patrol's compliance with developing its diversity, equity, and inclusion strategic recruitment and retention plan in accordance with the office of equity standards and the state patrol's progress made toward performance measures in its diversity, equity, and inclusion strategic recruitment and retention plan.

(4) This section expires June 30, 2032. [2022 c 146 § 2.]

Findings—Intent—2022 c 146: "(1) The legislature finds that:

(a) In 2021, the total Washington state patrol workforce was 84 percent white and 67 percent male, the field force workforce was 86 percent white and 86 percent male, and the managerial staff was as high as 93 percent white;

(b) A strong diversity, equity, and inclusion strategic recruitment and retention plan is necessary to:

(i) Provide the state patrol with the benefits of a diverse workforce, improving service to the public, increasing employee productivity, and providing new perspectives and innovative approaches to achieving the agency's mission of enhancing the safety and security of all people and communities; and

(ii) Fill vacancies with those who are from historically and currently marginalized communities;

(c) Public employment opportunities at the Washington state patrol should provide all commissioned and noncommissioned staff full access to the opportunities, power, and resources each needs in the staff person's career; and

(d) The transition to a culture that fosters workforce diversity, equity, and inclusion requires steadfast commitment over the long term.

(2) Therefore, the legislature intends to:

(a) Challenge the state patrol to change and adapt its culture to attract and retain a diverse workforce representative of those who have been historically and currently marginalized and is representative of the labor force as a whole;

(b) Establish effective legislative and executive oversight mechanisms to increase workforce parity by eliminating disparities in the state patrol's workforce;

(c) Increase accountability and transparency relating to the state patrol's progress in achieving equity in its workforce; and

(d) Provide technical assistance and support for the state patrol's diversity, equity, and inclusion efforts over the long term." [2022 c 146 § 1.]

43.06D.900 Findings—Intent—2020 c 332. The legislature finds that the population of Washington state has become increasingly diverse over the last several decades. The legislature also finds that as the demographics of our state change, historically and currently marginalized communities still do not have the same opportunities to meet parity as their nonmarginalized counterparts across nearly every measure including education, poverty, employment, health, and more. Inequities based on race, ethnicity, gender, and other characteristics continue to be deep, pervasive, and persistent, and they come at a great economic and social cost. When individuals face barriers to achieving their full potential, the impact is felt by the individual, their communities, businesses, governments, and the economy as a whole in the form of lost wages, avoidable public expenditures, and more. This includes social ramifications that emerging technology,

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such as artificial intelligence and facial recognition technology, may have on historically and currently marginalized communities. It is the intent of the legislature to review these emerging technologies either already in use by agencies or before their launch by agencies if not already in use and make recommendations regarding agency use to ensure that the technology is used in a manner that benefits society and does not have disparate negative impacts on historically and currently marginalized communities or violate their civil rights. It is further intended that the office should collaborate with other state efforts in this regard.

The legislature finds that a more inclusive Washington is possible if agencies identify and implement effective strategies to eliminate systemic inequities. The legislature recognizes that different forms of discrimination and oppression are related to each other, and these relationships need to be taken into account.

The legislature finds that over the years, significant strides have been made within agencies to address the disparate outcomes faced by historically and currently marginalized communities. While these efforts have yielded positive work, the legislature finds that the work happening in agencies is fragmented across state government. Additionally, smaller agencies may not have the resources necessary to identify and implement policies to address systemic inequities. Furthermore, the legislature finds that the commission on African American affairs, the commission on Asian Pacific American affairs, the commission on Hispanic affairs, the governor's office of Indian affairs, the LGBTQ commission, the women's commission, and the human rights commission each play an important and integral role by serving as a voice for their respective communities and linking state government to these communities. The office is distinct from the commissions because it will serve as the state's subject matter expert on diversity, equity, and inclusion to state agencies and will provide technical assistance and support to agencies while each agency implements its individual equity plan. The office is not duplicative of the commissions, rather it is the intent of the legislature that the office will work in collaboration with the commissions. It is not the legislature's intent to eliminate the commissions or to reduce funding to the commissions by creating the office. Instead, it is the intent of the legislature that the office and the commissions shall work in a complementary manner with each other, support each other's work, jurisdictions, and missions, and adequately fund the commissions and the office as they take on their new complementary roles.

The legislature finds that state government must identify and coordinate effective strategies that focus on eliminating systemic barriers for historically and currently marginalized groups. To support this objective, an office of equity will provide a unified vision around equity for all state agencies. The office will assist government agencies to promote diversity, equity, and inclusion in all aspects of their decision making, including but not limited to services, programming, policy development, budgeting, and staffing. Doing so will foster a culture of accountability within state government that promotes opportunity for marginalized communities and will help normalize language and concepts around diversity, equity, and inclusion. [2020 c 332 § 1.]

[Title 43 RCW—page 57]

43.06D.901 Construction—2020 c 332. Nothing in chapter 332, Laws of 2020 creates any right or cause of action, nor may it be relied upon to compel the establishment of any program or special entitlement. [2020 c 332 § 9.]

Chapter 43.07 RCW SECRETARY OF STATE

Sections

- 43.07.010 Official bond.
- 43.07.020 Assistant and deputy secretary of state.
- 43.07.030 General duties.
- 43.07.032 Authenticity or certification of signatures—Attestation.
- 43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities.
- 43.07.037 Gifts, grants, conveyances—Receipt, sale—Rules.
- 43.07.040 Custodian of state records.
- 43.07.120 Fees—Rules.
- 43.07.125 Fees—Charitable trusts—Charitable solicitations.
- 43.07.128 Fees—Library operations account.
- 43.07.129 Washington state library operations account.
- 43.07.130 Secretary of state's revolving fund—Publication fees authorized, disposition.
- 43.07.140 Materials specifically authorized to be printed and distributed.
- 43.07.150 Uniform commercial code powers, duties, and functions transferred to department of licensing.
- 43.07.160 Authenticating officers—Appointment authorized—Use of facsimile signature.
- 43.07.170 Establishment of a corporate filing system using other methods authorized.
- 43.07.173 Electronic transmissions—Acceptance and filing by the secretary of state.
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- 43.07.210 Filing false statements—Penalty.
- 43.07.300 Division of elections—Director.
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- 43.07.350 Citizens' exchange program.
- 43.07.363 Washington state legacy project—Oral histories—Advisory council.
- 43.07.365 Washington state legacy project—Funding—Rules.
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- 43.07.380 Washington state legacy project, state library, and archives account.
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- 43.07.390 Real estate excise tax enforcement—Disclosure of transfer of controlling interest, real property.
- 43.07.400 Domestic partnership registry—Forms—Rules.
- 43.07.405 Library-archives building.
- 43.07.410 Library-archives building account.
- 43.07.900 Transfer of powers, duties, and functions—Legislative oral history program.

Acquisition and disposition of highway property, powers and duties relating to: Chapter 47.12 RCW.

Address confidentiality: Chapter 40.24 RCW.

Attests commissions issued by state: State Constitution Art. 3 § 15.

Attorney for former residents and nonresidents for service of process arising out of motor vehicle operation in this state: RCW 46.64.040.

Bonds deposited with
state auditor: RCW 43.09.010.
state officers' bonds: RCW 43.07.030.
state treasurer: RCW 43.08.020.

Charitable trusts: Chapter 11.110 RCW.

Civil rights, issuance of copies of instruments restoring civil rights: RCW 5.44.090.

County seats, removal, notice: RCW 36.12.070.

Duties: State Constitution Art. 3 § 17.

Election of: State Constitution Art. 3 § 1.

Elections

ballot titles, notice of contents: RCW 29A.36.040.
certificates of election, issuance by: RCW 29A.52.370.
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Filing with

banks: Chapter 30A.08 RCW.
corporations: Title 23B RCW.
credit unions: Chapter 31.12 RCW.
department of transportation: RCW 47.68.210.
domestic insurers: RCW 48.06.200.
engrossed bills: RCW 44.20.010.
initiatives and referendums: State Constitution Art. 2 § 1; RCW 29A.72.010, 29A.72.170.
mutual savings banks: RCW 32.08.061, 32.08.070.
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standard uniforms for sheriffs: RCW 36.28.170.
statute law committee code correction orders: RCW 1.08.016.
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Foreign corporations, duties: Chapters 23B.01 and 23B.15 RCW.

Initiatives and referendums

acceptance or rejection of petitions for filing: RCW 29A.72.170.
filing of proposals and petitions with: State Constitution Art. 2 § 1; RCW 29A.72.010.
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Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

Legislative journals, custodian of: RCW 43.07.040.

Local government redistricting: Chapter 29A.76 RCW.

Massachusetts trusts, power to prescribe rules and regulations as to: RCW 23.90.040.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Oath of office: RCW 43.01.020.

Official bond: RCW 43.07.010.

Process deposited with

domestic corporation without officer in state upon whom process can be served: RCW 4.28.090.
foreign corporation failing to maintain agent in state: RCW 23B.14.300.
nonadmitted foreign corporations having powers as to notes secured by real estate mortgages: RCW 23B.18.040.
nonresident or former resident motorists: RCW 46.64.040.
trademark registration actions: RCW 19.77.090.

Records, custodian of: State Constitution Art. 3 § 24; RCW 43.07.040.

Registry of governor's acts kept by: RCW 43.07.030.

Residence to be maintained at seat of government: State Constitution Art. 3 § 24.

Salary, amount of: State Constitution Art. 3 § 17, Art. 28 § 1; RCW 43.03.010.

Sale of unneeded toll facility property, secretary to attest deed and deliver: RCW 47.56.255.

Session laws

custodian of: RCW 43.07.040.
engrossed bill filed with: RCW 44.20.010.
numbering of: RCW 44.20.020.

State canvassing board member: RCW 29A.60.240.

Statute law committee code correction orders filed with: RCW 1.08.016.

Succession to office of governor: State Constitution Art. 3 § 10.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Trademarks and trade names

filing fee: RCW 43.07.120.
registration of, duties: Chapter 19.77 RCW.

43.07.010 Official bond. The secretary of state must execute an official bond to the state in the sum of ten thou-

sand dollars, conditioned for the faithful performance of the duties of his or her office, and shall receive no pay until such bond, approved by the governor, is filed with the state auditor. [2009 c 549 § 5024; 1965 c 8 § 43.07.010. Prior: 1890 p 633 § 10; RRS § 10994.]

43.07.020 Assistant and deputy secretary of state.

The secretary of state may have one assistant secretary of state and one deputy secretary of state each of whom shall be appointed by him or her in writing, and continue during his or her pleasure. The assistant secretary of state and deputy secretary of state shall have the power to perform any act or duty relating to the secretary of state's office, that the secretary of state has, and the secretary of state shall be responsible for the acts of said assistant and deputy. [2009 c 549 § 5025; 1965 c 8 § 43.07.020. Prior: 1947 c 107 § 1; 1903 c 75 § 1; 1890 p 633 § 12; RRS § 10995.]

43.07.030 General duties. The secretary of state shall:

- (1) Keep a register of and attest the official acts of the governor;
- (2) Affix the state seal, with his or her attestation, to commissions, pardons, and other public instruments to which the signature of the governor is required, and also attestations and authentications of certificates and other documents properly issued by the secretary;
- (3) Record all articles of incorporation, deeds, or other papers filed in the secretary of state's office;
- (4) Receive and file all the official bonds of officers required to be filed with the secretary of state;
- (5) Take and file in the secretary of state's office receipts for all books distributed by him or her;
- (6) Certify to the legislature the election returns for all officers required by the Constitution to be so certified, and certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;
- (7) Furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;
- (8) Present to the speaker of the house of representatives, at the beginning of each regular session of the legislature during an odd-numbered year, a full account of all purchases made and expenses incurred by the secretary of state on account of the state;
- (9) File in his or her office an impression of each and every seal in use by any state officer;
- (10) Keep a record of all fees charged or received by the secretary of state. [2009 c 549 § 5026; 1982 c 35 § 186; 1980 c 87 § 21; 1969 ex.s. c 53 § 3; 1965 c 8 § 43.07.030. Prior: 1890 p 630 § 2; RRS § 10992.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.032 Authenticity or certification of signatures—Attestation. (1) The secretary of state may attest to the authenticity of the signature of a public official in the state of Washington.

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(2) The secretary of state may attest to the authenticity [of], or certify a signature of, a notary public except as noted in subsection (3) of this section.

(3) The secretary of state may not certify or attest to the signature of a notary public on a document:

- (a) Regarding allegiance to a government or jurisdiction;
 - (b) Relating to the relinquishment or renunciation of citizenship, sovereignty, military status, or world service authority; or
 - (c) Setting forth or implying for the bearer a claim of immunity from the laws of the jurisdictions of Washington, immunity from the laws of the state of Washington, or immunity from federal law.
- (4) The secretary of state may adopt rules to implement this section. [2016 sp.s. c 23 § 1.]

43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities. The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state. [1985 c 156 § 19; 1982 c 35 § 190.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.037 Gifts, grants, conveyances—Receipt, sale—Rules. The secretary of state and the *council may accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds. [1996 c 253 § 105.]

***Reviser's note:** 1996 c 253 § 101, which created the international education and exchange council, was vetoed.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

43.07.040 Custodian of state records. The secretary of state is charged with the custody:

- (1) Of all acts and resolutions passed by the legislature;
- (2) Of the journals of the legislature;
- (3) Of the seal of the state;
- (4) Of all books, records, deeds, parchments, maps, and papers required to be kept on deposit in his or her office pursuant to law;
- (5) Of the enrolled copy of the Constitution. [2009 c 549 § 5027; 1965 c 8 § 43.07.040. Prior: 1903 c 107 § 1; 1890 p 629 § 1; RRS § 10991.]

43.07.120 Fees—Rules. (1) The secretary of state must establish by rule and collect the fees in this subsection:

- (a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;
- (b) For any certificate under seal;
- (c) For filing and recording trademark;

(d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 23.95 RCW, Title 23B RCW, chapter 18.100, 19.09, 19.77, 23.86, 23.90, 24.03A, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, *25.04, 25.15, 25.10, 25.05, or 26.60 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic or facsimile transmittal of information from corporation records or copies of documents;

(d) The providing of information by micrographic or other reduced-format compilation;

(e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and

(f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court may be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law. [2021 c 176 § 5220; 2019 c 132 § 3; 2015 c 176 § 8101; 2010 1st sp.s. c 29 § 6; 1998 c 103 § 1309. Prior: 1994 c 211 § 1310; 1994 c 60 § 5; 1993 c 269 § 15; 1991 c 72 § 53; 1989 c 307 § 39; 1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120; prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

*Reviser's note: Chapter 25.04 RCW was repealed in its entirety by 1998 c 103 § 1308.

Effective date—2021 c 176: See note following RCW 24.03A.005.

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

Intent—2010 1st sp.s. c 29: See note following RCW 24.06.450.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.125 Fees—Charitable trusts—Charitable solicitations. The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 11.110 or 19.09 RCW:

(1) Any service rendered in-person at the secretary of state's office;

(2) Any expedited service;

(3) The electronic transmittal of documents;

(4) The providing of information by microfiche or other reduced-format compilation;

(5) The handling of checks or drafts for which sufficient funds are not on deposit;

(6) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;

(7) The handling of telephone requests for information; and

(8) Special search charges. [1993 c 471 § 24; 1993 c 269 § 14.]

Additional notes found at www.leg.wa.gov

43.07.128 Fees—Library operations account. (1) In addition to other required filing fees, the secretary of state shall collect a fee of five dollars at the time of filing for:

(a) Articles of incorporation for domestic corporations or applications for certificates of authority for foreign corporations under Title 23B RCW;

(b) Certificates of formation for domestic limited liability companies or registrations of foreign limited liability companies under chapter 25.15 RCW;

(c) Registrations of foreign and domestic partnerships and limited liability partnerships under chapter 25.05 RCW;

(d) Certificates of limited partnerships and registrations of foreign limited partnerships under chapter 25.10 RCW; and

(e) Registrations of trademarks under chapter 19.77 RCW.

(2) Moneys received under subsection (1) of this section must be deposited into the library operations account created in RCW 43.07.129. [2019 c 448 § 6; 2007 c 523 § 1.]

Findings—Intent—2019 c 448: See note following RCW 43.07.405.

Additional notes found at www.leg.wa.gov

43.07.129 Washington state library operations account. The Washington state library operations account is created in the custody of the state treasurer. All moneys received under RCW 36.18.010(11) and 43.07.128 must be deposited in the account. Expenditures from the account may be made only for the following purposes:

(1) Payment of the financing contract entered into by the secretary of state for the Washington state library-archives building;

(2) Capital maintenance of the Washington state library-archives building and the specialized regional facility located in eastern Washington designed to serve the archives, records management, and digital data management needs of local government; and

(3) Program operations that serve the public, relate to the collections and exhibits housed in the Washington state library-archives building, or fulfill the missions of the state archives and state library.

Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW. [2019 c 448 § 7; 2012 2nd sp.s. c 7 § 917; 2011 1st sp.s. c 50 § 940; 2007 c 523 § 4.]

Findings—Intent—2019 c 448: See note following RCW 43.07.405.

Effective date—2012 2nd sp.s. c 7: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

43.07.130 Secretary of state's revolving fund—Publication fees authorized, disposition. There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which must be used by the office of the secretary of state to defray the costs of providing registration and information services authorized by law by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 11, 18, 19, 23, 23B, 24, 25, 26, 30A, 30B, 42, 43, or 64 RCW.

The secretary of state is authorized to charge a fee for publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 19.09.305, 19.09.315, 19.09.440, 23.95.260(1) (a)(ii) and (iii) and (d), or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund must be placed in the secretary of state's revolving fund.

During the 2005-2007 fiscal biennium, the legislature may transfer from the secretary of state's revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund. [2015 c 176 § 8102; 2010 1st sp.s. c 29 § 7; 2005 c 518 § 924; 1994 c 211 § 1311; 1991 c 72 § 54; 1989 c 307 § 40; 1982 c 35 § 188; 1973 1st ex.s. c 85 § 1; 1971 ex.s. c 122 § 1.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

Intent—2010 1st sp.s. c 29: See note following RCW 24.06.450.

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.140 Materials specifically authorized to be printed and distributed. The secretary of state is hereby specifically authorized to print, reprint, and distribute the following materials:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23B RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29A RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state Constitution;
- (11) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and
- (12) Rules and informational publications related to the statutory provisions set forth above. [2015 c 53 § 70; 1991 c 72 § 55; 1982 c 35 § 189; 1973 1st ex.s. c 85 § 2.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

(2022 Ed.)

43.07.150 Uniform commercial code powers, duties, and functions transferred to department of licensing. All powers, duties, and functions vested by law in the secretary of state relating to the Uniform Commercial Code are transferred to the department of licensing. [1979 c 158 § 92; 1977 ex.s. c 117 § 1.]

Additional notes found at www.leg.wa.gov

43.07.160 Authenticating officers—Appointment authorized—Use of facsimile signature. The secretary of state may appoint authenticating officers and delegate to the authenticating officers power to sign for the secretary of state any document which, to have legal effect, requires the secretary of state's signature and which is of a class which the secretary of state has authorized for signature by the authenticating officers in a writing on file in the secretary of state's office. Authenticating officers shall sign in the following manner: "., Authenticating Officer for the Secretary of State"

The secretary of state may also delegate to the authenticating officers power to use the secretary of state's facsimile signature for signing any document which, to have legal effect, requires the secretary of state's signature and is of a class with respect to which the secretary of state has authorized use of his or her facsimile signature by a writing filed in the secretary of state's office. As used in this section, "facsimile signature" includes, but is not limited to, the reproduction of any authorized signature by a copper plate, a rubber stamp, or by a photographic, photostatic, or mechanical device.

The secretary of state shall effect the appointment and delegation by placing on file in the secretary of state's office in a single document the names of all persons appointed as authenticating officers and each officer's signature, a list of the classes of documents each authenticating officer is authorized to sign for the secretary of state, a copy of the secretary of state's facsimile signature, and a list of the classes of documents which each authenticating officer may sign for the secretary of state by affixing the secretary of state's facsimile signature. The secretary of state may revoke the appointment or delegation or powers by placing on file in the secretary of state's office a new single document which expressly revokes the authenticating officers and the powers delegated to them. The secretary of state shall record and index documents filed by him or her under this section, and the documents shall be open for public inspection.

The authorized signature of an authenticating officer or an authorized facsimile signature of the secretary of state shall have the same legal effect and validity as the genuine manual signature of the secretary of state. [1982 c 35 § 2.]

Intent—1982 c 35: "The legislature finds that the secretary of state's office, particularly the corporations division, performs a valuable public service for the business and nonprofit corporate community, and for the state of Washington. The legislature further finds that numerous filing and other requirements of the laws relating to the secretary of state's responsibilities have not been recently updated, thereby causing problems and delays for the corporate community as well as the secretary of state's office.

To provide better service to the corporate community in this state, and to permit the secretary of state to make efficient use of state resources and improve collection of state revenues, statutory changes are necessary. It is the intent of the legislature to provide for the modernization and updating of the corporate laws and other miscellaneous filing statutes and to give the secretary of state the appropriate authority the secretary of state needs to implement the modernization and streamlining effort." [1982 c 35 § 1.]

Additional notes found at www.leg.wa.gov

43.07.170 Establishment of a corporate filing system using other methods authorized. (1) If the secretary of state determines that the public interest and the purpose of the filing and registration statutes administered by the secretary of state would be best served by a filing system utilizing microfilm, microfiche, methods of reduced-format document recording, or electronic or online filing, the secretary of state may, by rule adopted under chapter 34.05 RCW, establish such a filing system.

(2) In connection with a reduced-format filing system, the secretary of state may eliminate any requirement for a duplicate original filing copy, and may establish reasonable requirements concerning paper size, print legibility, and quality for photo-reproduction processes as may be necessary to ensure utility and readability of any reduced-format filing system.

(3) In connection with an electronic or online filing system, the secretary of state may eliminate any requirement for a duplicate original filing copy and may establish reasonable requirements for electronic filing, including but not limited to signature technology, file format and type, delivery, types of filing that may be completed electronically, and methods for the return of filed documents. [2002 c 74 § 20; 1982 c 35 § 191.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.173 Electronic transmissions—Acceptance and filing by the secretary of state. (1) The secretary of state may accept and file in the secretary's office electronic transmissions of any documents authorized or required to be filed pursuant to Title 23, 23B, 24, or 25 RCW or chapter 18.100 RCW. The acceptance by the secretary of state is conditional upon the document being legible and otherwise satisfying the requirements of state law or rules with respect to form and content, including those established under RCW 43.07.170. If the document must be signed, that requirement may be satisfied by an electronic signature.

(2) If a fee is required for filing the document, the secretary may reject the document for filing if the fee is not received before, or at the time of, receipt. [2019 c 132 § 4; 2016 c 202 § 61; 1998 c 38 § 1.]

43.07.175 Copies of certain filed documents to insurance commissioner. The secretary of state shall deliver to the office of the insurance commissioner copies of corporate documents filed with the secretary of state by health care service contractors and health maintenance organizations that have been provided for the insurance commissioner under RCW 48.44.013 and 48.46.012. [1998 c 23 § 18.]

43.07.180 Staggered corporate license renewal system authorized. The secretary of state may, by rule adopted under chapter 34.05 RCW, adopt and implement a system of renewals for annual corporate licenses or filings in which the renewal dates are staggered throughout the year.

To facilitate the implementation of the staggered system, the secretary of state may extend the duration of corporate

licensing periods or report filing periods and may impose and collect such additional proportional fees as may be required on account of the extended periods. [1982 c 35 § 192.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.190 Use of a summary face sheet or cover sheet with the filing of certain documents authorized. Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23B RCW, or chapter 18.100, 23.86, 23.90, 24.03A, 24.06, 24.12, 24.20, 24.24, 24.36, 25.10, or 25.15 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter 34.05 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable. [2021 c 176 § 5221; 2016 c 202 § 62; 1991 c 72 § 56; 1989 c 307 § 41; 1982 c 35 § 193.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

43.07.200 Department of revenue as secretary of state's agent for legal entity renewals. The secretary of state and the director of revenue may enter into agreements designating the department of revenue as the secretary of state's agent for issuing all or a portion of the legal entity renewals within the jurisdiction of the secretary of state. [2011 c 298 § 24; 1982 c 182 § 12.]

Purpose—Intent—Agency transfer—Contracting—Effective date—2011 c 298: See notes following RCW 19.02.020.

Business licensing service act: Chapter 19.02 RCW.

Certain business or professional activity licenses exempt: RCW 19.02.800.

43.07.210 Filing false statements—Penalty. Any person who files a false statement, which he or she knows to be false, in the articles of incorporation or in any other materials required to be filed with the secretary of state shall be guilty of a gross misdemeanor punishable under chapter 9A.20 RCW. [1984 c 75 § 25.]

43.07.300 Division of elections—Director. The secretary of state shall establish a division of elections within the office of the secretary of state and under the secretary's supervision. The division shall be under the immediate supervision of a director of elections who shall be appointed by the secretary of state and serve at the secretary's pleasure. [1992 c 163 § 1.]

43.07.310 Division of elections—Duties. The secretary of state, through the division of elections, is responsible for the following duties, as prescribed by Title 29A RCW:

(1) The filing, verification of signatures, and certification of state initiative, referendum, and recall petitions;

(2) The production and distribution of a state voters' pamphlet;

(3) The examination, testing, and certification of voting equipment, voting devices, and vote tallying systems;

(4) The administration, canvassing, and certification of the presidential primary, state primaries, and state general elections;

(5) The administration of motor voter and other voter registration and voter outreach programs;

(6) The training, testing, and certification of state and local elections personnel as established in RCW 29A.04.530;

(7) The conduct of reviews as established in RCW 29A.04.570; and

(8) Other duties that may be prescribed by the legislature. [2009 c 415 § 11; 2003 c 111 § 2303; 1992 c 163 § 2.]

43.07.350 Citizens' exchange program. The secretary of state, in consultation with the *department of trade, the department of agriculture, economic development consultants, the consular corps, and other international trade organizations, shall develop a Washington state citizens' exchange program that will initiate and promote:

(1) Citizen exchanges between Washington state agricultural, technical, and educational groups and organizations with their counterparts in targeted foreign countries.

(2) Expanded educational and training exchanges between Washington state individuals and organizations with similar groups in targeted foreign countries.

(3) Programs to extend Washington state expertise to targeted foreign countries to help promote better health and technical assistance in agriculture, water resources, hydroelectric power, forestry management, education, and other areas.

(4) Efforts where a special emphasis is placed on utilizing Washington state's rich human resources who are retired from public and private life and have the time to assist in this program.

(5) People-to-people programs that may result in increased tourism, business relationships, and trade from targeted foreign nations to the Pacific Northwest. [1993 c 113 § 1.]

***Reviser's note:** The department of trade and economic development was the correct name for this department. The name of the department is now the department of community, trade, and economic development, pursuant to 1993 c 280. The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.07.363 Washington state legacy project—Oral histories—Advisory council. (1) The secretary of state shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state executive and judicial branches, the state's congressional delegation, and other citizens who have participated in the political history of Washington state. The program shall be called the Washington state legacy project. The secretary of state may contract with independent oral historians or history departments of the state universities to interview and record oral histories. The manuscripts and publications shall be made available for research and reference through the state archives. The transcripts, together with current and historical photographs, may be published for distribution to libraries and the general public, and be posted on the secretary of state's website.

(2) The Washington state legacy project may act as a principal repository for oral histories related to community, family, and other various projects.

(3) The oral history of a person who occupied positions, or was staff to a person who occupied positions, in more than one branch of government shall be conducted by the entity authorized to conduct oral histories of persons in the position last held by the person who is the subject of the oral history. However, the person being interviewed may select the entity he or she wishes to prepare his or her oral history.

(4) The secretary of state may create a Washington state legacy project advisory council to provide advice and guidance on matters pertaining to operating the legacy project. The secretary of state may not compensate members of the legacy project advisory council but may provide reimbursement to members for expenses that are incurred in the conduct of their official duties. [2008 c 222 § 10.]

Purpose—2008 c 222: See note following RCW 44.04.320.

43.07.365 Washington state legacy project—Fundings—Rules. The secretary of state may fund Washington state legacy project activities through donations as provided in RCW 43.07.037. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing transcripts and photographs, and presenting displays and programs. Donations that do not meet the criteria of the Washington state legacy project may not be accepted. The secretary of state shall adopt rules necessary to implement this section. [2008 c 222 § 11; 2002 c 358 § 3.]

Purpose—2008 c 222: See note following RCW 44.04.320.

43.07.370 Washington state legacy project—Gifts, grants, conveyances—Expenditures—Rules. (1) The secretary of state may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under this section may be used only for the following purposes:

(a) Conducting the Washington state legacy project;

(b) Archival activities;

(c) Washington state library activities;

(d) Development, construction, and operation of the Washington state library-archives building; and

(e) Donation of Washington state flags.

(3)(a) Moneys received under subsection (2)(a) through (c) of this section must be deposited in the Washington state legacy project, state library, and archives account established in RCW 43.07.380.

(b) Moneys received under subsection (2)(d) of this section must be deposited in the Washington state library-archives building account created in RCW 43.07.410.

(c) Moneys received under subsection (2)(e) of this section must be deposited in the Washington state flag account created in RCW 43.07.388.

(4) The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds. [2019 c 448 § 8; 2009 c 71 § 1; 2008 c 222 § 12; 2007 c 523 § 3; 2003 c 164 § 1.]

Findings—Intent—2019 c 448: See note following RCW 43.07.405.

Purpose—2008 c 222: See note following RCW 44.04.320.

Additional notes found at www.leg.wa.gov

43.07.380 Washington state legacy project, state library, and archives account. The Washington state legacy project, state library, and archives account is created in the custody of the state treasurer. All moneys received under RCW 43.07.370 must be deposited in the account. Expenditures from the account may be made only for the purposes of the Washington state legacy project under RCW 43.07.363, archives program under RCW 40.14.020, and the state library program under chapter 27.04 RCW. Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW. [2008 c 222 § 13; 2003 c 164 § 2.]

Purpose—2008 c 222: See note following RCW 44.04.320.

43.07.388 Washington state flag account. The Washington state flag account is created in the custody of the state treasurer. All moneys received under RCW 43.07.370(2)(e) must be deposited in the account. Expenditures from the account may be used only for the purpose of donating Washington state flags to Washington state military personnel. Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2009 c 71 § 2.]

43.07.390 Real estate excise tax enforcement—Disclosure of transfer of controlling interest, real property. (1)(a) The secretary of state must adopt rules requiring any entity that is required to file an annual report with the secretary of state, including entities under Titles 23, 23B, 24, and 25 RCW, to disclose: (i) Any transfer of the controlling interest in the entity or an interest that amounts to at least one-third of a controlling interest in the entity; and (ii) the granting of any option to acquire an interest described in (a)(i) of this subsection.

(b) The disclosure requirement in this subsection only applies to entities owning an interest in real property located in this state.

(2) This information must be made available to the department of revenue upon request for the purposes of tracking the transfer of the controlling interest in entities owning real property and to determine when the real estate excise tax is applicable in such cases.

(3) For the purposes of this section, "controlling interest" has the same meaning as provided in RCW 82.45.033. [2019 c 424 § 6; 2010 1st sp.s. c 23 § 213; 2005 c 326 § 2.]

Automatic expiration date and tax preference performance statement exemption—Effective date—2019 c 424: See notes following RCW 82.45.060.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

Additional notes found at www.leg.wa.gov

43.07.400 Domestic partnership registry—Forms—Rules. (1) The state domestic partnership registry is created within the secretary of state's office.

(2)(a) The secretary shall prepare a form entitled "declaration of state registered domestic partnership" to meet the requirements of RCW 26.60.010, 26.60.020, 26.60.030, and 26.60.070.

(b) The "declaration of state registered domestic partnership" form must contain a statement that registration may affect property and inheritance rights, that registration is not a substitute for a will, deed, or partnership agreement, and that any rights conferred by registration may be completely superseded by a will, deed, or other instrument that may be executed by either party. The form must also contain instructions on how the partnership may be terminated.

(3) This form shall be available to the public at the secretary of state's office and on the internet.

(4) The secretary shall adopt rules necessary to implement the administration of the state domestic partnership registry. [2016 c 202 § 63; 2007 c 156 § 3.]

43.07.405 Library-archives building. The secretary of state's office shall own and operate the library-archives building. The secretary of state's office is authorized to enter into a long-term land lease from the port of Olympia for a period of up to seventy-five years. To comply with the provisions of this section, this project is exempt from the provisions of RCW 43.82.010. [2019 c 448 § 2.]

Finding—Intent—2019 c 448: "(1) The legislature finds that the current facilities housing the Washington state archives, Washington state library, Washington state corporations and charities office, and the state elections office is in need of modernization and update. This is due to these vital programs being housed in obsolete and crowded facilities that do not meet modern standards for the functions performed in each.

(2) It is the intent of the secretary of state and the legislature to preserve and protect the state's vital records and collections, provide convenient service to the public, be excellent stewards of state funds, and house staff and collections in a state of the art, energy efficient building owned and operated by the office of the secretary of state. This will be accomplished by constructing a new building funded by a financing contract entered into by the secretary of state pursuant to chapter 39.94 RCW. The principal and interest requirements of the financing contract will be serviced by existing rents, existing fees, and a new fee on documents recorded at county recording offices.

(3) This building, to be known as the library-archives building, will replace the existing state archives, the existing leased library location, the existing leased elections office, and the corporations and charities building on Capitol Way in addition to consolidating other archival structures. The consolidation of facilities will create efficiency under RCW 43.82.010(6) and convenience for customers with the eventual goal of housing all functions of the various divisions of the office of the secretary of state." [2019 c 448 § 1.]

43.07.410 Library-archives building account. The Washington state library-archives building account is created in the custody of the state treasurer. All moneys received under RCW 36.18.010(12), 36.22.175(3), and 43.07.370(3) must be deposited in the account. Expenditures from the account may be made only for the purposes of payment of the financing contract entered into by the secretary of state for the Washington state library-archives building. Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW. [2019 c 448 § 9.]

Findings—Intent—2019 c 448: See note following RCW 43.07.405.

43.07.900 Transfer of powers, duties, and functions—Legislative oral history program. (1) All powers, duties, and functions of the secretary of state pertaining to the legislative oral history program are transferred to the secretary of the senate and the chief clerk of the house of representatives. All references to the secretary of state or the office of the secretary of state in the Revised Code of Washington shall be construed to mean the secretary of the senate and the chief clerk of the house of representatives when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the secretary of state pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the secretary of the senate and the chief clerk of the house of representatives. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the secretary of the senate and the chief clerk of the house of representatives.

(b) Any appropriations made to the secretary of state for carrying out the powers, functions, and duties transferred shall, on June 12, 2008, be transferred and credited to the secretary of the senate and the chief clerk of the house of representatives.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the secretary of state pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the secretary of the senate and the chief clerk of the house of representatives. All existing contracts and obligations shall remain in full force and shall be performed by the secretary of the senate and the chief clerk of the house of representatives.

(4) The transfer of the powers, duties, functions, and personnel of the secretary of state shall not affect the validity of any act performed before June 12, 2008.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(7) The secretary of the senate and the chief clerk of the house of representatives will determine location and staff reporting for the program. [2008 c 222 § 9.]

Purpose—2008 c 222: See note following RCW 44.04.320.

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Chapter 43.08 RCW STATE TREASURER

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Purchase of bridges or ferries by department of transportation, treasurer's powers and duties relating to: RCW 47.56.050.

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Washington State University

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43.08.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Cancel or cancellation" means to void.
- (2) "Redeem or redemption" means to clear or pay. [2018 c 35 § 2.]

43.08.010 General duties. The state treasurer shall:

- (1) Receive and keep all moneys of the state in the manner provided in RCW 43.88.160, as now or hereafter amended;
- (2) Disburse the public moneys only upon warrants or checks drawn upon the treasurer in the manner provided by law;
- (3) Account for moneys in the manner provided by law;
- (4) Render accounts in the manner provided by law;
- (5) Indorse on each warrant when required by law, the date of payment, the amount of the principal, and the interest due on that date;
- (6) Report annually to the legislature a detailed statement of the condition of the treasury, and of its operations for the preceding fiscal year;
- (7) Give information, in writing, to either house of the legislature, whenever required, upon any subject connected with the treasury, or touching any duty of his or her office;
- (8) Account for and pay over all moneys on hand to his or her successor in office, and deliver all books, vouchers, and effects of office to him or her, who shall receipt therefor;
- (9) Upon payment of any warrant, or check, take upon the back thereof the indorsement of the person to whom it is paid. [2009 c 549 § 5031; 1977 c 75 § 38; 1965 c 8 § 43.08.010. Prior: 1890 p 642 § 1; RRS § 11019; prior: 1886 p 134 § 2; 1871 p 77 § 2; 1864 p 52 § 3; 1854 p 413 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.

43.08.015 Cash management duties. Within the policies and procedures established pursuant to RCW 43.41.110(13) and 43.88.160(1), the state treasurer shall take such actions as are necessary to ensure the effective cash management of public funds. This cash management shall include the authority to represent the state in all contractual relationships with financial institutions. The state treasurer may delegate cash management responsibilities to the affected agencies. [2019 c 147 § 3; 1993 c 500 § 3.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.08.020 Residence—Bond—Oath. The state treasurer shall reside and keep his or her office at the seat of government. Before entering upon his or her duties, he or she shall execute and deliver to the secretary of state a bond to the state in a sum of not less than five hundred thousand dollars, to be approved by the secretary of state and one of the justices of the supreme court, conditioned to pay all moneys at such times as required by law, and for the faithful performance of all duties required of him or her by law. He or she shall take an oath of office, to be indorsed on his or her commission, and file a copy thereof, together with the bond, in the office of the secretary of state. [2009 c 549 § 5032; 1972 ex.s. c 12 § 1. Prior: 1971 c 81 § 108; 1971 c 14 § 1; 1965 c 8 § 43.08.020; prior: 1890 p 642 § 2; RRS § 11022; prior: 1886 p 133 § 1; 1881 p 18 § 1; 1871 p 76 § 1; 1864 p 51 § 2; 1854 p 413 § 2.]

43.08.030 Seal. The treasurer shall keep a seal of office for the authentication of all papers, writings, and documents required to be certified by him or her. [2009 c 549 § 5033; 1965 c 8 § 43.08.030. Prior: 1890 p 643 § 6; RRS § 11025; prior: 1886 p 135 § 6; 1871 p 78 § 6; 1864 p 53 § 7; 1854 p 414 § 7.]

43.08.040 Administration of oaths. The treasurer may administer all oaths required by law in matters pertaining to the duties of his or her office. [2009 c 549 § 5034; 1965 c 8 § 43.08.040. Prior: 1890 p 643 § 5; RRS § 11024; prior: 1886 p 135 § 5; 1871 p 78 § 5; 1864 p 53 § 6; 1854 p 414 § 6.]

43.08.050 Records and accounts—Public inspection. All the books, papers, letters, and transactions pertaining to the office of treasurer shall be open for the inspection of a committee of the legislature to examine or settle all accounts, and to count all money; and to the inspection of the public generally during office hours; and when the successor of any treasurer is elected and qualified, the state auditor shall examine and settle all the accounts of the treasurer remaining unsettled, and give him or her a certified statement showing the balance of moneys, securities, and effects for which he or she is accountable, which have been delivered to his or her successor, and report the same to the legislature. [2009 c 549 § 5035; 1965 c 8 § 43.08.050. Prior: 1890 p 643 § 3; RRS § 11023; prior: 1886 p 134 § 3; 1864 p 53 § 4; 1854 p 414 § 4.]
Public records, budget and accounting system: RCW 43.88.200.

43.08.060 Duplicate receipts. All persons required by law to pay any moneys into the state treasury, or to transmit any public funds to the state treasurer on state accounts, shall, at the time of making such payments or transmissions specify the amount and date of such payment, and for what particular fund or account.

For all sums of money so paid the state treasurer shall forthwith give duplicate receipts in accordance with the rules and regulations promulgated by the office of financial management as authorized by RCW 43.88.160(1). [1979 c 151 § 89; 1977 c 16 § 1; 1965 c 8 § 43.08.060. Prior: 1890 p 643 § 4; RRS § 5504; prior: 1886 p 134 § 4; 1871 p 78 § 4; 1864 p 53 § 5; 1854 p 414 § 5.]

43.08.061 Warrants—Department of enterprise services—Printing—Retention of redeemed warrants. The department of enterprise services is responsible for the printing of all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW. [2011 1st sp.s. c 43 § 305; 1993 c 38 § 1; 1981 c 10 § 1; 1975 c 48 § 2.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Actions against state on redeemed warrants, time limitation: RCW 4.92.200.

43.08.062 Warrants—Presentation—Cancellation. Should the payee or legal holder of any warrant drawn against the state treasury fail to present the warrant for payment within one hundred eighty days of the date of its issue

or, if registered and drawing interest, within one hundred eighty days of its call, the state treasurer shall enter the same as canceled on the books of his or her office.

Should the payee or legal owner of such a canceled warrant thereafter present it for payment, the state treasurer may, upon proper showing by affidavit and the delivery of the warrant into his or her possession, issue a new warrant in lieu thereof, and the state treasurer is authorized to pay the new warrant. [2009 c 549 § 5036; 1986 c 99 § 1; 1981 c 10 § 2; 1965 c 8 § 43.08.062. Prior: 1890 p 638 § 13; RRS § 11008; prior: 1883 p 61 § 1. Formerly RCW 43.09.100.]

43.08.064 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Issuing officer to issue duplicate. In case of the loss or destruction of a state warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any state officer, or agency, such officer, or such agency through its appropriate officer may issue or cause to be issued a duplicate in lieu thereof, in all respects and for the same amount as the original. The duplicate instrument so issued shall be subject in all other respects to the same provisions of law as the original instrument. [2018 c 35 § 4; 1979 ex.s. c 71 § 3; 1975-'76 2nd ex.s. c 77 § 2; 1965 ex.s. c 61 § 1; 1965 c 8 § 43.08.064. Prior: 1890 p 639 § 15; RRS § 11010; prior: 1888 p 236 § 1. Formerly RCW 43.09.110.]

Lost or destroyed evidence of indebtedness issued by local governments: Chapter 39.72 RCW.

43.08.066 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Conditions on issuance. Before a duplicate instrument is issued, the state treasurer or other issuing officer shall require the person making application for its issue to file in his or her office a written affidavit specifically alleging on oath that he or she is the proper owner, payee, or legal representative of such owner or payee of the original instrument, giving the date of issue, the number, amount, and for what services or claim or purpose the original instrument or series of instruments of which it is a part was issued, and that the same has been lost or destroyed, and has not been paid, or has not been received by him or her. [2018 c 35 § 3; 2009 c 549 § 5037; 1979 ex.s. c 71 § 4; 1972 ex.s. c 74 § 1; 1971 ex.s. c 54 § 1; 1965 ex.s. c 61 § 2; 1965 c 8 § 43.08.066. Prior: 1890 p 639 § 16; RRS § 11011; prior: 1888 p 236 § 2. Formerly RCW 43.09.120.]

43.08.068 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Records to be kept—Cancellation of originals—Notice. The state treasurer or other issuing officer shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such agency, and of the issue of any duplicate therefor; and upon the issuance of any duplicate, the officer shall enter upon his or her books the cancellation of the original instrument and immediately notify the state treasurer, the state auditor, and all trustees and paying agents authorized to redeem such instruments on behalf of the state of Washington, of such cancellation. [2018 c 35 § 1; 2009 c 549 § 5038; 1965 ex.s. c 61 § 3; 1965 c 8 § 43.08.068. Prior: 1890 p 640 § 17; RRS § 11012; prior: 1888 p 236 § 3. Formerly RCW 43.09.130.]

43.08.070 Warrants—Indorsement—Interest—Issuance of new warrants. Upon the presentation of any state warrant to the state treasurer, if there is not sufficient money then available in the appropriate fund with which to redeem all warrants drawn against such fund which the treasurer anticipates will be presented for payment during the current business day, he or she may endorse on the warrant, "Not paid for want of funds," with the day and date of presentation, and the warrant shall draw legal interest from and including that date until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first; or, in the alternative, the treasurer may prepare and register a single new warrant, drawn against the appropriate fund, and exchange such new warrant for one or more warrants not paid for want of funds when presented for payment totaling a like amount but not exceeding one million dollars, which new warrant shall then draw legal interest from and including its date of issuance until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first. The legal rate or rates of interest on these warrants shall be established by the state treasurer in accordance with RCW 39.56.030. [2009 c 549 § 5039; 1981 c 10 § 3; 1971 ex.s. c 88 § 2; 1965 c 8 § 43.08.070. Prior: 1869 p 408 § 2; RRS § 5516.]

Additional notes found at www.leg.wa.gov

43.08.080 Call of warrants. When the state treasurer deems that there is sufficient money in a fund to pay all or part of the registered warrants of such fund, and the warrants are not presented for payment, he or she may advertise at least once in some newspaper published at the seat of government, stating the serial number of the warrants he or she is calling and prepared to pay; and if such warrants are not presented for payment within five days from and after the date of publication of the notice, the warrants shall not then draw any further interest: PROVIDED, That when said fund has a balance in excess of three percent of the preceding monthly warrant issue of said fund, or at any time that the money in the fund exceeds the warrants outstanding, the state treasurer shall similarly advertise a call for all those registered warrants which can be fully paid out of said fund in accordance with their registration sequence. [2009 c 549 § 5040; 1971 ex.s. c 88 § 3; 1965 c 8 § 43.08.080. Prior: 1890 p 644 § 8; RRS § 5517; prior: 1886 p 135 § 9; 1871 p 79 § 9.]

Additional notes found at www.leg.wa.gov

43.08.090 Fiscal agent for state. The state treasurer shall be ex officio the fiscal agent of the state. [1965 c 8 § 43.08.090. Prior: 1891 c 138 § 1; RRS § 5484.]

Fiscal agencies: Chapter 43.80 RCW.

43.08.100 Fiscal agent for state—Duties of fiscal agent. The fiscal agent of the state shall receive all moneys due the state from any other state or from the federal government, take all necessary steps for the collection thereof, and apply the same to the funds to which they belong. He or she shall collect from time to time all moneys that may accrue to the state by virtue of section 13 of the enabling act, or from any other source not otherwise provided for by law. [2009 c 549 § 5041; 1965 c 8 § 43.08.100. Prior: (i) 1891 c 138 § 2; RRS § 5485. (ii) 1891 c 138 § 4; RRS § 5487.]

43.08.110 Fiscal agent for state—Fiscal agent's receipts. The fiscal agent shall issue the necessary receipts for all moneys collected, and such receipts shall show the date when paid, the amount, from whom received, and on what account the money was collected.

One or more copies of such receipt shall be given to the persons from whom the money was received, and one copy shall be given to the director of financial management. [1979 c 151 § 90; 1965 c 8 § 43.08.110. Prior: 1891 c 138 § 3; RRS § 5486.]

43.08.120 Assistant—Deputies—Responsibility for acts. The state treasurer may appoint an assistant state treasurer, who shall have the power to perform any act or duty which may be performed by the state treasurer, and in case of a vacancy in the office of state treasurer, perform the duties of the office until the vacancy is filled as provided by law.

The state treasurer may appoint no more than three deputy state treasurers, who shall have the power to perform any act or duty which may be performed by the state treasurer.

The assistant state treasurer and the deputy state treasurers shall be exempt from the provisions of chapter 41.06 RCW and shall hold office at the pleasure of the state treasurer; they shall, before entering upon the duties of their office, take and subscribe, and file with the secretary of state, the oath of office provided by law for other state officers.

The state treasurer shall be responsible on his or her official bond for all official acts of the assistant state treasurer and the deputy state treasurers. [2009 c 549 § 5042; 1973 c 10 § 1; 1971 c 15 § 1; 1965 c 8 § 43.08.120. Prior: 1921 c 36 § 1; RRS § 11020.]

43.08.130 Wilful refusal to pay warrants—Exceptions—Recovery. If the state treasurer wilfully refuses to pay except in accordance with the provisions of RCW 43.08.070 or by cash or check any warrant designated as payable in the state treasurer's office which is lawfully drawn upon the state treasury, or knowingly pays any warrant otherwise than as provided by law, then any person injured thereby may recover by action against the treasurer and the sureties on his or her official bond. [2009 c 549 § 5043; 1972 ex.s. c 145 § 2; 1965 c 8 § 43.08.130. Prior: 1890 p 644 § 7; RRS § 11026; prior: 1886 p 135 § 8; 1871 p 78 § 8; 1864 p 53 § 8; 1854 p 414 § 8.]

43.08.135 Cash or demand deposits—Duty to maintain—RCW 9A.56.060(1) not deemed violated, when. The state treasurer shall maintain at all times cash, or demand deposits in qualified public depositories in an amount needed to meet the operational needs of state government: PROVIDED, That the state treasurer shall not be considered in violation of RCW 9A.56.060(1) if he or she maintains demand accounts in public depositories in an amount less than all treasury warrants issued and outstanding. [2009 c 549 § 5044; 1983 c 3 § 100; 1972 ex.s. c 145 § 3.]

43.08.140 Embezzlement—Penalty. If any person holding the office of state treasurer fails to account for and pay over all moneys in his or her hands in accordance with law, or unlawfully converts to his or her own use in any way whatever, or uses by way of investment in any kind of prop-

erty, or loans without authority of law, any portion of the public money intrusted to him or her for safekeeping, transfer, or disbursement, or unlawfully converts to his or her own use any money that comes into his or her hands by virtue of his or her office, the person is guilty of a class B felony, and upon conviction thereof, shall be imprisoned in a state correctional facility not exceeding fourteen years, and fined a sum equal to the amount embezzled. [2003 c 53 § 224; 1992 c 7 § 40; 1965 c 8 § 43.08.140. Prior: 1890 p 644 § 10; RRS § 11027; prior: 1886 p 105 § 11.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Misappropriation of funds: RCW 42.20.070, 42.20.090.

43.08.150 Monthly financial report on funds and accounts. As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his or her control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the current month;
- (3) The amount of withdrawals or transfers from each fund during the current month; and
- (4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. The report shall be posted on the official website of the state treasurer. The report shall also include a graphical display of month end balances, for both the current and previous fiscal year, for the general fund, total funds in the treasury, total funds in the treasurer's trust fund, and total funds managed by the state treasurer. [2010 c 222 § 2; 2009 c 549 § 5045; 1977 c 75 § 39; 1965 c 8 § 43.08.150. Prior: 1947 c 32 § 1; Rem. Supp. 1947 § 11019-1.]

Intent—2010 c 222: "The legislature recognizes the significant financial benefits realized by the state through consolidated cash management activities. It is the intent of this act to encourage and, when financially advantageous, to expand those activities." [2010 c 222 § 1.]

Biennial reports, periods: RCW 43.01.035.

Investment of surplus funds, rules and allocations to be published in report: RCW 43.86A.050.

Reports, budget and accounting system: RCW 43.88.160.

43.08.160 Monthly financial report—Report to be printed. The state treasurer shall cause all such reports to be printed as other public documents are printed and the approval of no other officer of the state shall be necessary in carrying out the purposes of RCW 43.08.150. [1965 c 8 § 43.08.160. Prior: 1947 c 32 § 2; Rem. Supp. 1947 § 11019-2.]

43.08.180 Cashing checks, drafts, and state warrants—Discretionary—Conditions—Procedure upon dishonor. The state treasurer is hereby authorized, in the treasurer's discretion and as a service to state officers and employees, and to those known by the treasurer or the treasurer's staff, to accept in exchange for cash the checks, drafts, or Washington state warrants drawn or endorsed by these

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authorized persons and presented to the treasurer's office as meet each of the following conditions:

(1) The check or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution; and

(2) The person presenting the check, draft, or Washington state warrant to the treasurer must produce such identification as the treasurer may require.

In the event that any check or draft cashed for a state officer or employee by the state treasurer under this section is dishonored by the drawee financial institution when presented for payment, the treasurer is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next state salary warrant the full amount of the dishonored check or draft. [1984 c 74 § 1; 1971 c 5 § 1.]

43.08.190 State treasurer's service fund—Creation—Purpose. There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040(4)(c). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate for all funds and accounts; except that the state treasurer may negotiate a different allocation rate with any state agency that has independent authority over funds not statutorily required to be held in the state treasury or in the custody of the state treasurer. In no event shall the rate be less than the actual costs incurred by the state treasurer's office. If no rate is separately negotiated, the default rate for any funds held shall be the rate set for funds held pursuant to statute.

The legislature may direct the state treasurer to make transfers of money in the state treasurer's service fund to the state general fund. [2022 c 157 § 13; 2021 c 334 § 969; 2019 c 415 § 962; 2017 3rd sp.s. c 1 § 966; 2015 3rd sp.s. c 4 § 953; 2013 2nd sp.s. c 4 § 973; 2011 1st sp.s. c 50 § 941; 2010 c 222 § 3; 2009 c 564 § 926; 2008 c 329 § 912; 2005 c 518 § 925; 2003 1st sp.s. c 25 § 916; 1991 sp.s. c 13 § 83; 1985 c 405 § 506; 1973 c 27 § 2.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Intent—2010 c 222: See note following RCW 43.08.150.

Additional notes found at www.leg.wa.gov

43.08.200 State treasurer's service fund—Expenditure limitation. All moneys deposited in the state treasurer's service fund shall be expended only pursuant to legislative appropriation and for the purposes set forth in RCW 43.08.190, 43.08.200, and *43.85.241. [1973 c 27 § 3.]

*Reviser's note: RCW 43.85.241 was repealed by 1985 c 57 § 90, effective July 1, 1985.

43.08.250 Money received by treasurer from certain court actions—Use. (1) The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the state general fund.

(2) The money received by the state treasurer from the increase in fees imposed by sections 9, 10, 12, 13, 14, 17, and 19, chapter 457, Laws of 2005 shall be deposited in the state general fund. It is the intent of the legislature that fifty percent of such money be appropriated to the administrator for the courts for the purposes of contributing to district court judges' salaries and to eligible elected municipal court judges' salaries. It is further the intent of the legislature that the balance of such moneys be used to fund criminal indigent defense assistance and enhancement at the trial court level, representation of parents in dependency and termination proceedings, and civil legal representation of indigent persons. [2009 c 479 § 26; 2008 c 329 § 913; 2007 c 522 § 950. Prior: 2005 c 518 § 926; 2005 c 457 § 8; 2005 c 282 § 44; 2003 1st sp.s. c 25 § 918; prior: 2001 2nd sp.s. c 7 § 914; 2001 c 289 § 4; 2000 2nd sp.s. c 1 § 911; 1999 c 309 § 915; 1997 c 149 § 910; 1996 c 283 § 901; 1995 2nd sp.s. c 18 § 912; 1993 sp.s. c 24 § 917; 1992 c 54 § 3; prior: 1991 sp.s. c 16 § 919; 1991 sp.s. c 13 § 25; 1985 c 57 § 27; 1984 c 258 § 338.]

Intent—2005 c 457: "The legislature recognizes the state's obligation to provide adequate representation to criminal indigent defendants and to parents in dependency and termination cases. The legislature also recognizes that trial courts are critical to maintaining the rule of law in a free society and that they are essential to the protection of the rights and enforcement of obligations for all. Therefore, the legislature intends to create a dedicated revenue source for the purposes of meeting the state's commitment to improving trial courts in the state, providing adequate representation to criminal indigent defendants, providing for civil legal services for indigent persons, and ensuring equal justice for all citizens of the state." [2005 c 457 § 1.]

Findings—Effective date—2005 c 105: See RCW 2.53.005 and 2.53.900.

Intent—1984 c 258: See note following RCW 3.34.130.

Public safety and education assessment: RCW 3.62.090.

Additional notes found at www.leg.wa.gov

43.08.280 Statewide custody contract for local governments and institutions of higher education. (1) The state treasurer is authorized to negotiate a statewide custody contract for custody services for local governments and institutions of higher education. The term of the contract shall be for a minimum of four years.

(2) The state treasurer shall, as soon as is practical after negotiations have been successfully completed, notify local governments and institutions of higher education that a statewide custody contract has been negotiated.

(3) Following such notification, each local government or institution of higher education may, at its option, become a signatory to the statewide contract. Each local government or institution of higher education may only become a signatory

to the contract by having its authorized local government official or financial officer and the statewide custodian execute the statewide contract. The contract is between the statewide custodian and the respective local government or institution of higher education. It is the responsibility of the local government official or financial officer to fully understand the terms and conditions of the statewide custody contract prior to its execution, and to ensure those terms and conditions are observed by the statewide custodian during the term of the contract.

(4) The state treasurer may adopt rules to implement this section, including, but not limited to, those rules deemed necessary to provide for an orderly transition in the event of a different statewide custodian in a new statewide custody contract.

(5) Any statewide custodian who becomes a signatory to the statewide custody contract may be exempted from the requirements of chapter 39.58 RCW for the purposes of this section, based on rules adopted by the public deposit protection commission.

(6) For the purposes of this section:

(a) "Financial institution" means a bank or trust company chartered and supervised under state or federal law;

(b) "Local government" means any county, city, town, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including any public corporation created by such an entity, which legally possesses and exercises investment authority;

(c) "Statewide custody contract" means a contract negotiated between the state treasurer and a financial institution that establishes terms and fees for custody services which are optional to any local government for the term of the contract;

(d) "Statewide custodian" means the financial institution with whom the state treasurer has negotiated a statewide custody contract;

(e) "Custody services" means services performed by a financial institution such as the settlement, safekeeping, valuation, and market-value reporting of negotiable instruments owned by the local government;

(f) "Local government official" means any officer or employee of a local government who has been designated by statute or local charter, ordinance, or resolution as the officer having the authority to invest the funds of the local government. However, the county treasurer is the only local government official for all political subdivisions for which the county treasurer has statutory or contractual authority to invest the funds thereof;

(g) "Financial officer" means the board-appointed treasurer of a college, university, community or technical college district, or the state board for community and technical colleges. [1999 c 293 § 2.]

Purpose—1999 c 293: "Local governments enter into separate, individual contracts with banks for custody services. The rate and terms which each local government obtains from a given bank sometimes varies widely depending upon the size of the local government's portfolio, and thus fails to provide all of the state's taxpayers with the most advantageous rates and terms for such custody services. The purpose of this act is to enable local governments and institutions of higher education, through a statewide custody contract, to collectively obtain the most advantageous rate and terms from a single financial institution for custodial banking services. Under such a statewide custody contract, smaller local governments may receive a higher level of service, while paying lower fees than they might have individually obtained." [1999 c 293 § 1.]

Additional notes found at www.leg.wa.gov

43.08.290 City-county assistance account—Use and distribution of funds. (1) The city-county assistance account is created in the state treasury. All receipts from real estate excise tax disbursements provided under RCW 82.45.060 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes provided in this section.

(2) Funds deposited in the city-county assistance account must be distributed equally to the cities and counties.

(3)(a) Funds distributed to counties must, to the extent possible, increase the sum of revenues under RCW 82.14.030(1) and streamlined sales tax mitigation funds received by each county to the greater of two hundred fifty thousand dollars or:

(i) For a county with an unincorporated population of one hundred thousand or less, seventy percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009; and

(ii) For a county with an unincorporated population of more than one hundred thousand, sixty-five percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009.

(b) For each county with an unincorporated population of fifteen thousand or less, the county must receive the greater of the amount in (a) of this subsection or the amount received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(c) For each county with an unincorporated population of more than fifteen thousand and less than twenty-two thousand, the county must receive in calendar year 2006 and 2007 the greater of the amount provided in (a) of this subsection or the amount received in local government assistance provided by section 716, chapter 276, Laws of 2004.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all counties as otherwise determined under this subsection must be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds must be divided ratably based upon unincorporated population among those counties receiving funds under this subsection and imposing the tax authorized under RCW 82.14.030(2) at the maximum rate.

(4)(a) For each city with a population of five thousand or less with a per capita assessed property value less than twice the statewide average per capita assessed property value for all cities for the calendar year previous to the certification

under subsection (6) of this section, the city must receive the greater of the following three amounts:

(i) An amount necessary to increase the sum of revenues under RCW 82.14.030(1) and streamlined sales tax mitigation funds received by a city up to fifty-five percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009.

(ii) The amount received in local government assistance provided for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(b) For each city with a population of more than five thousand with a per capita assessed property value less than the statewide average per capita assessed property value for all cities for the calendar year previous to the certification under subsection (6) of this section, the city must receive the greater of the following two amounts:

(i) An amount necessary to increase the sum of revenues under RCW 82.14.030(1) and streamlined sales tax mitigation funds received by a city up to fifty percent of the statewide weighted average per capita level of sales and use tax revenues received under RCW 82.14.030(1) with respect to taxable activity in all cities imposing the sales and use tax authorized under RCW 82.14.030(1) in the previous calendar year, for certifications before October 1, 2009, or the previous fiscal year, for certifications on and after October 1, 2009.

(ii) For a city with a per capita assessed property value less than fifty-five percent of the statewide average per capita assessed property value for all cities, an amount determined by subtracting the city's per capita assessed property value from fifty-five percent of the statewide average per capita assessed property value, dividing that amount by one thousand, and multiplying the result by the city's population.

(c) No city may receive an amount greater than one hundred thousand dollars a year under (a) or (b) of this subsection.

(d) To the extent that revenues are insufficient to fund the distributions under this subsection, the distributions of all cities as otherwise determined under this subsection must be ratably reduced.

(e) To the extent that revenues exceed the amounts needed to fund the distributions under this subsection, the excess funds must be divided ratably based upon population among those cities receiving funds under this subsection and imposing the tax collected under RCW 82.14.030(2) at the maximum rate.

(f) This subsection only applies to cities incorporated before August 1, 2005.

(5) The two hundred fifty thousand dollar amount in subsection (3) of this section and the one hundred thousand dollar amount in subsection (4) of this section must be increased each year beginning in calendar year 2006 by inflation as defined in RCW 84.55.005, as determined by the department of revenue.

(6)(a) Distributions under subsections (3) and (4) of this section must be made quarterly beginning on October 1, 2005, based on population as last determined by the office of financial management. The department of revenue must certify the amounts to be distributed under this section by the state treasurer. The certification must be made by October 1, 2005, for the October 1, 2005, distribution and the January 1, 2006, distribution, based on calendar year 2004 department of revenue distributions of sales and use taxes authorized under RCW 82.14.030(1). The certification must be made by March 1, 2006, for distributions beginning April 1, 2006, by March 1, 2007, for distributions beginning April 1, 2007, and by March 1, 2008, for distributions beginning April 1, 2008. The March 1st certification must be used for distributions occurring on April 1st, July 1st, and October 1st of the year of certification and on January 1st of the year following certification.

(b) By March 1, 2009, the department of revenue must certify the amounts to be distributed under this section on April 1, 2009, July 1, 2009, and October 1, 2009. The certification must be based on calendar year 2008 department of revenue distributions of sales and use taxes authorized under RCW 82.14.030(1), and the population as last determined by the office of financial management.

(c) By October 1, 2009, the department of revenue must certify the amounts to be distributed under this section on January 1, 2010, April 1, 2010, July 1, 2010, and October 1, 2010. The certification must be based on department of revenue distributions in fiscal year 2009 of sales and use taxes authorized under RCW 82.14.030(1), streamlined sales tax mitigation data for mitigation distributions authorized under *RCW 82.14.495 made December 2008 through September 2009, and population as last determined by the office of financial management.

(d) By September 1, 2010, and September 1st of every year thereafter, the department of revenue must make available a preliminary certification of the amounts to be distributed under this section on January 1st, April 1st, July 1st, and October 1st of the year immediately following certification. By October 1, 2010, and October 1st of every year thereafter, the department must finalize the certification. Once finalized, no changes may be made to the certification for any reason. Certifications must be based on distributions of sales and use taxes imposed under RCW 82.14.030(1) made by the department of revenue in the fiscal year that ended during the calendar year of certification, streamlined sales tax mitigation data for mitigation distributions authorized under *RCW 82.14.495 made in the fiscal year that ended during the calendar year of certification, and population as last determined by the office of financial management.

(7) All distributions to local governments from the city-county assistance account constitute increases in state distributions of revenue to political subdivisions for purposes of state reimbursement for the costs of new programs and increases in service levels under RCW 43.135.060, including

any claims or litigation pending against the state on or after January 1, 2005.

(8) As used in this section, "streamlined sales tax mitigation funds" means an amount determined by the department of revenue equal to the actual mitigation distribution amount under *RCW 82.14.495 received by a jurisdiction in four consecutive calendar quarters, less the mitigation distribution amount that would have been received by the jurisdiction during the same four calendar quarters had mitigation been calculated without the local sales tax authorized under RCW 82.14.030(1). If the difference is a negative amount or if a jurisdiction does not receive any mitigation distribution during the applicable four calendar quarters, then "streamlined sales tax mitigation funds" is zero. [2009 c 127 § 1; 2005 c 450 § 2.]

*Reviser's note: RCW 82.14.495 was repealed by 2017 3rd sp.s. c 28 § 404, effective October 1, 2019.

Additional notes found at www.leg.wa.gov

43.08.300 Public deposit protection—Report. By December 1, 2009, and each December 1st thereafter, the office of the state treasurer shall report to the legislature actions taken by the public deposit protection commission and the state treasurer regarding public deposit protection. [2009 c 9 § 18.]

Additional notes found at www.leg.wa.gov

43.08.800 Billy Frank Jr. national statutory hall collection fund. (Contingent expiration date.) (1) The Billy Frank Jr. national statutory hall collection fund is created in the custody of the state treasurer. All receipts from gifts, grants, or endowments from public and private sources as authorized under section 3, chapter 20, Laws of 2021 must be deposited into the fund. Expenditures from the fund may be used only to carry out the provisions of chapter 20, Laws of 2021. Only the chair of the committee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires when the duties under sections 3 and 4, chapter 20, Laws of 2021 are completed. [2021 c 20 § 5.]

Notice of expiration date—2021 c 20 § 5: "The Billy Frank Jr. national statutory hall selection committee must provide written notice of the expiration date of section 5 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others deemed appropriate by the committee." [2021 c 20 § 6.]

Findings—2021 c 20: "The legislature finds that:

(1) In 1864, the national statutory hall collection was established in the United States capitol authorizing each state to contribute two statues to the collection. The statues must be of deceased persons who were citizens of the respective state and are historically important figures or known for their distinguished civic or military service.

(2) Washington has contributed to the collection a statue of Mother Joseph in 1980 and a statue of Marcus Whitman in 1953.

(3) Marcus Whitman was a missionary who traveled to present-day Washington state with his wife Narcissa. Together, they established several missions as well as their own settlement, Waiilatupu, near present-day Walla Walla. Whitman assisted in the "great emigration" of 1843, which established the Oregon trail. Whitman's contributions to the creation of Washington were profound and important. Whitman has represented the state in the statutory hall for nearly 70 years. The legislature finds that it is appropriate to replace his statue with one of a more contemporary Washingtonian to further celebrate the state and the continuous contributions Washingtonians have made in the 20th and 21st centuries.

(4) In the 1850s, the United States government signed a series of treaties with tribes in the region under which the tribes ceded millions of acres of land to the United States in exchange for agreeing to live on reservations while reserving what was most important to them: The right to continue to hunt, fish, and gather in all of their traditional places. Billy Frank Jr., born on March 9, 1931, on the banks of the Nisqually river in Washington, was a Nisqually tribal member and fought tirelessly to ensure that the United States government would honor the promises made in the treaties with Washington tribes. During his efforts, Billy Frank Jr. was arrested more than 50 times for exercising his treaty-protected right to fish for salmon, the first arrest being when he was 14 years old. He helped to stage "fish-ins" as protests, where he and others demanded that treaty tribes have the right to fish in their usual and accustomed places, a right that had been reserved in the treaty of Medicine Creek. His activism and perseverance paved the way for the "Boldt decision" in *United States v. Washington*, which affirmed the right of Washington treaty tribes to take up to half of the harvestable salmon in western Washington, reaffirmed tribal treaty-reserved rights, and established the tribes as comanagers of the salmon resource.

(5) Billy Frank Jr. dedicated his life advocating for equality, justice, and environmental protections. He fought to protect tribal treaty rights, native cultures and traditions, and the natural resources they are based upon, including fish and shellfish. Despite long-standing persecution, Billy Frank Jr. worked tirelessly to protect salmon for the benefit and enjoyment of all Washingtonians. When salmon populations plummeted toward extinction, eventually to the point of being listed as threatened under the federal endangered species act, Billy Frank Jr. vocally advocated to unify people to reverse the trend. His endless work on salmon recovery was based on inclusivity and an understanding that tribal treaty rights will help recover salmon and would benefit the entire society and the economy in enumerable ways.

(6) Billy Frank Jr. was a patron and the longtime chairman of, the northwest Indian fisheries commission, which assists its 20 member tribes in managing salmon and other natural resources and upholding tribal treaty rights, serves as an information clearinghouse, provides a forum for tribes to address issues of mutual concern, and works to establish relationships with government agencies and nongovernment organizations to recover salmon.

(7) Billy Frank Jr.'s unwavering commitment to the fight for equality and the fight against racism and abuse was of global influence.

(8) Billy Frank Jr. has been likened to other humanitarians and civil rights leaders such as Reverend Dr. Martin Luther King Jr., Cesar Chavez, and Nelson Mandela.

(9) In recognition of his distinguished accomplishments, Billy Frank Jr. was awarded the Albert Schweitzer prize for humanitarianism, the common cause award for human rights efforts, the American Indian distinguished service award, the Washington state environmental excellence award, and the Wallace Stegner award. Billy Frank Jr. was posthumously awarded the presidential medal of freedom by President Barack Obama.

(10) Congress passed the Billy Frank Jr. tell your story act, renaming the Nisqually national wildlife refuge in honor of Billy Frank Jr., and establishing a national memorial within the Billy Frank Jr. Nisqually national wildlife refuge to commemorate the location of the signing of the 1854 treaty of Medicine Creek between the United States government and the Nisqually, Muckleshoot, Puyallup, and Squaxin Island tribes.

(11) Billy Frank Jr. passed away on May 5, 2014, but he continues to be an inspiration to many domestically and abroad.

(12) Billy Frank Jr. is a significant historical and civil rights figure who is worthy of recognition and inclusion in the national statutory hall collection." [2021 c 20 § 1.]

Intent—Request of legislature—2021 c 20: "It is the intent and request of the legislature that the statue of Marcus Whitman be removed from the national statutory hall collection at the United States capitol and replaced with a statue of Billy Frank Jr., upon the approval of the joint committee on the library of congress in accordance with 2 U.S.C. Sec. 2132." [2021 c 20 § 2.]

Chapter 43.09 RCW STATE AUDITOR

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GENERALLY

43.09.010 Residence—Office—Bond—Oath. The state auditor shall reside and keep his or her office at the seat of government. Before entering upon his or her duties he or she shall execute and deliver to the secretary of state a bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful performance of all duties required by law. He or she shall take an oath of office before any person authorized to administer oaths, and file a copy thereof, together with the required bond, in the office of the secretary of state. [1995 c 301 § 1; 1965 c 8 § 43.09.010. Prior: 1890 p 634 § 1; RRS § 10996; prior: Code 1881 § 2566; 1871 p 96 § 1; 1854 p 409 § 2.]

43.09.020 Auditor of public accounts. The auditor shall be auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law. [1989 c 140 § 1; 1965 c 8 § 43.09.020. Prior: 1890 p 635 § 2; RRS § 10997; prior: Code 1881 § 2567; 1871 p 97 § 4; 1854 p 409 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.

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43.09.025 Deputy auditors—Assistant directors. The state auditor may appoint deputies and assistant directors as necessary to carry out the duties of the office of the state auditor. These individuals serve at the pleasure of the state auditor and are exempt from the provisions of chapter 41.06 RCW as stated in RCW 41.06.070(1)(v). [2020 c 18 § 14; 1995 c 301 § 2.]

Explanatory statement—2020 c 18: See note following RCW 43.79A.040.

43.09.035 Assistants—Personnel. The state auditor may appoint and employ other assistants and personnel necessary to carry out the work of the office of the state auditor. [1995 c 301 § 3.]

43.09.045 Contracts with certified public accountants. The state auditor may contract with public accountants certified in Washington to carry out those portions of the duties of auditing state agencies and local governments as the state auditor may determine. [1995 c 301 § 4.]

43.09.050 General duties of auditor. The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his or her discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Investigate improper governmental activity under chapter 42.40 RCW;

(4) Inform the attorney general in writing of the necessity for the attorney general to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(5) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his or her office;

(6) Report to the director of financial management in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

(7) Authenticate with his or her official seal papers issued from his or her office;

(8) Make his or her official report annually on or before the 31st of December. [1992 c 118 § 6; 1979 c 151 § 91. Prior: 1977 ex.s. c 144 § 7; 1977 c 75 § 40; 1971 ex.s. c 170 § 1; 1965 c 8 § 43.09.050; prior: 1890 p 636 § 5; RRS § 11001; prior: Code 1881 § 2570; 1854 p 410 § 5.]

Advances: Chapter 42.24 RCW.

Information to legislature: RCW 43.88.160.

Investigations of improper governmental actions—Protection of employee disclosures: Chapter 42.40 RCW.

Post-audit duties: RCW 43.88.160.

Powers and duties, budget and accounting system: RCW 43.88.160.

Report of irregularities to attorney general: RCW 43.88.160.

Report to legislature: RCW 43.88.160.

Additional notes found at www.leg.wa.gov

43.09.055 Audit of entities with state contracts or grants—Costs. The state auditor may, where there is reasonable cause to believe that a misuse of state moneys has occurred, conduct an audit of financial and legal compliance of any entity that receives public moneys through contract or grant in return for services. This authority includes examinations of not-for-profit corporations who provide personal services to a state agency or to clients of a state agency. Such a financial audit shall be performed in a manner consistent with this chapter, and may be performed according to an agreed upon procedures engagement as in the existing 1998 standards of the American institute of certified public accountants professional standards section 600.

The state auditor may charge the contracting agency, whether state or local, for the costs of an audit of a not-for-profit corporation that receives public moneys through contract or grant in return for services. Any contracting agency that is responsible to the state auditor for such costs shall use due diligence to recover costs from the audited entity. [1998 c 232 § 3.]

(2022 Ed.)

Findings—Intent—1998 c 232: "The legislature finds that the state auditor lacks the needed authority to investigate the finances of state nongovernmental contractors. The legislature further finds that current contract oversight and management procedures cannot ensure that services under contract are delivered effectively and efficiently. Therefore, the legislature intends to enhance the authority of the state auditor to audit entities that provide services to the state or its clients under contract with state agencies." [1998 c 232 § 1.]

43.09.065 Audit of entities with state contracts or grants—Report regarding criminal misuse of public moneys. If after a financial audit of an entity that receives public moneys under contract or grant in return for services, there is reasonable cause to believe that a criminal misuse of public moneys has occurred, the office of the state auditor, within thirty days from receipt of the report, shall deliver a copy of the report to the appropriate local prosecuting authority. [1998 c 232 § 4.]

Findings—Intent—1998 c 232: See note following RCW 43.09.055.

43.09.165 Subpoenas—Compulsory process—Witnesses—Oaths—Testimony—Penalty. (1) The state auditor, his or her employees and every person legally appointed to perform such service, may issue subpoenas and compulsory process and direct the service thereof by any constable or sheriff, compel the attendance of witnesses and the production of books and papers before him or her at any designated time and place, and may administer oaths.

(2) When any person summoned to appear and give testimony neglects or refuses to do so, or neglects or refuses to answer any question that may be put to him or her touching any matter under examination, or to produce any books or papers required, the person making such examination shall apply to a superior court judge of the proper county to issue a subpoena for the appearance of such person before him or her; and the judge shall order the issuance of a subpoena for the appearance of such person forthwith before him or her to give testimony; and if any person so summoned fails to appear, or appearing, refuses to testify, or to produce any books or papers required, he or she shall be subject to like proceedings and penalties for contempt as witnesses in the superior court.

(3) Willful false swearing in any such examination is perjury under chapter 9A.72 RCW. [2003 c 53 § 225; 1995 c 301 § 5.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.09.166 Subpoenas—Court approval—Process. (1) In addition to the authority granted in RCW 43.09.165, the state auditor and his or her authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must (a) state that an order is sought pursuant to this subsection; (b) adequately specify the records, documents, or testimony; and (c) declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the state auditor's authority and that the subpoenaed documents or testimony are reason-

ably related to an investigation within the state auditor's authority.

(2) Where the application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this section constitutes authority of law for the state auditor to subpoena the records or testimony.

(3) The state auditor and his or her authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. [2013 c 50 § 2.]

Intent—2013 c 50: "The legislature intends to provide a process for the state auditor's office to apply for court approval of an investigative subpoena which is authorized under current law in cases where the agency seeks such approval, or where court approval is required by Article I, section 7 of the state Constitution. The legislature does not intend to require court approval except where otherwise required by law or Article I, section 7 of the state Constitution. The legislature does not intend to create any new authority to subpoena records or create any new rights for any person." [2013 c 50 § 1.]

43.09.170 May administer oaths. The state auditor may administer all oaths required by law in matters pertaining to the duties of his or her office. [1995 c 301 § 6; 1965 c 8 § 43.09.170. Prior: 1890 p 641 § 23; RRS § 11017; prior: Code 1881 § 2586.]

43.09.180 Seal—Copies of documents as evidence. The state auditor shall keep a seal of office for the identification of all papers, writings, and documents required by law to be certified by him or her, and copies authenticated and certified of all papers and documents lawfully deposited in his or her office shall be received in evidence with the same effect as the originals. [1995 c 301 § 7; 1965 c 8 § 43.09.180. Prior: 1890 p 641 § 24; RRS § 11018; prior: Code 1881 § 2587.]

43.09.185 Loss of public funds—Illegal activity—Report to state auditor's office. State agencies and local governments shall immediately report to the state auditor's office known or suspected loss of public funds or assets or other illegal activity. The state auditor must adopt policies as necessary to implement this section. [2022 c 148 § 1; 1995 c 301 § 8.]

43.09.186 Toll-free efficiency hotline—Duties—Annual overview and update. (1) Within existing funds, the state auditor must establish a toll-free telephone line that is available to public employees and members of the public to recommend measures to improve efficiency in state and local government and to report waste, inefficiency, or abuse, as well as examples of efficiency or outstanding achievement, by state and local agencies, public employees, or persons under contract with state and local agencies.

(2) The state auditor must prepare information that explains the purpose of the hotline, and the hotline telephone number must be prominently displayed in the information. Hotline information must be posted in all government offices in locations where it is most likely to be seen by the public. The state auditor must publicize the availability of the toll-free hotline through print and electronic media and other means of communication with the public.

(3) The state auditor must designate staff to be responsible for processing recommendations for improving efficiency and reports of waste, inefficiency, or abuse received through the hotline. The state auditor must conduct an initial review of each recommendation for efficiency and report of waste, inefficiency, or abuse made by public employees and members of the public. Following the initial review, the state auditor must determine which assertions require further examination or audit under the auditor's current authority and must assign qualified staff.

(4) The identity of a person making a report through the hotline, by email through the state auditor's website, or other means of communication is confidential at all times unless the person making a report consents to disclosure by written waiver, or until the investigation described in subsection (3) of this section is complete. All documents related to the report and subsequent investigation are also confidential until completion of the investigation or audit or when the documents are otherwise statutorily exempt from public disclosure.

(5) The state auditor must prepare a written determination of the results of the investigation performed, including any background information that the auditor deems necessary. The state auditor must report publicly the conclusions of each investigation and recommend ways to correct any deficiency and to improve efficiency. The reports must be distributed to the affected state agencies.

(6) The state auditor must provide an annual overview and update of hotline investigations, including the results and efficiencies achieved, to the legislature and to the appropriate legislative committees. [2007 c 41 § 1.]

43.09.188 Regulatory fairness act—Performance reviews. The state auditor shall conduct a performance review of agency compliance with the regulatory fairness act, pursuant to chapter 19.85 RCW. The performance review must be completed no earlier than June 30, 2020, and subsequent reviews must be completed periodically thereafter. Factors used to determine the frequency of subsequent reviews include the degree to which agencies are found to be in compliance with the act. The auditor must report his or her findings to the legislature, and any recommendations, by June 30, 2021, and after every subsequent review. [2017 c 53 § 4.]

LOCAL GOVERNMENT ACCOUNTING

43.09.200 Local government accounting—Uniform system of accounting. The state auditor shall formulate, prescribe, and install a system of accounting and reporting for all local governments, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees, or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other

documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs. [1995 c 301 § 9; 1965 c 8 § 43.09.200. Prior: 1909 c 76 § 2; RRS § 9952.]

Electronic transfer of public funds to be in compliance with: RCW 39.58.750.

School districts budgets to be in compliance with: RCW 28A.505.120.

43.09.205 Local government accounting—Costs of public works—Standard form. The state auditor shall prescribe a standard form with which the accounts and records of costs of all local governments shall be maintained as required under RCW 39.04.070. [1995 c 301 § 10; 1987 c 120 § 4.]

43.09.210 Local government accounting—Separate accounts for each fund or activity—Exemptions. (1) Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

(2) Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

(3) All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

(4) All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed.

(5) This section does not apply to:

(a) Agency surplus personal property handled under RCW 43.19.1919(1)(e); or

(b) The transfer, lease, or other disposal of surplus property for public benefit purposes, as provided under RCW 39.33.015. [2018 c 217 § 5; 2000 c 183 § 2; 1965 c 8 § 43.09.210. Prior: 1909 c 76 § 3; RRS § 9953.]

43.09.220 Local government accounting—Separate accounts for public service industries. Separate accounts shall be kept for every public service industry of every local government, which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for service rendered to the public, and the amount and character of the service rendered therefor, and the amount collected annually from private users for service rendered to them, and the amount and character of the service rendered therefor. [1995 c 301 § 11; 1965 c 8 § 43.09.220. Prior: 1909 c 76 § 4; RRS § 9954.]

(2022 Ed.)

43.09.230 Local government accounting—Annual reports—Comparative statistics. (1) As used in this section:

(a) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, special districts as defined in RCW 85.38.010, lake and beach management districts, conservation districts, and irrigation districts.

(b) "Unauditable" means a special purpose district that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed.

(2) The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year. The state auditor may allow local governments a thirty-day extension for filing annual fiscal reports if the governor has declared an emergency pursuant to RCW 43.06.210.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (a) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; (b) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; and (c) a classified statement of all receipts and expenditures by any public institution together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document.

(3)(a)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the legislative authority of a county if any special purpose districts, located wholly or partially within the county, have been determined to be unauditable. If the boundaries of the special purpose district are located within more than one county, the state auditor must notify all legislative authorities of the counties within which the boundaries of the special purpose district lie.

(ii) If a county has been notified as provided in (a)(i) of this subsection (3), the special purpose district and the county auditor, acting on behalf of the special purpose district, are

prohibited from issuing any warrants against the funds of the special purpose district until the district has had its report certified by the state auditor.

(iii) Notwithstanding (a)(ii) of this subsection (3), a county may authorize the special purpose district and the county auditor to issue warrants against the funds of the special purpose district:

(A) In order to prevent the discontinuation or interruption of any district services;

(B) For emergency or public health purposes; or

(C) To allow the district to carry out any district duties or responsibilities.

(b)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the state treasurer if any special purpose districts have been determined to be unaudit-able.

(ii) If the state treasurer has been notified as provided in (b)(i) of this subsection (3), the state treasurer may not distribute any local sales and use taxes imposed by a special purpose district to the district until the district has had its report certified by the state auditor. [2022 c 148 § 2; 2021 c 122 § 6; 2020 c 179 § 1; 1995 c 301 § 12; 1993 c 18 § 2; 1989 c 168 § 1; 1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

Finding—Intent—2021 c 122: See note following RCW 2.32.050.

Finding—Purpose—1993 c 18: "The legislature finds and declares that the use of outside consultants is an increasing element in public sector labor relations. The public has a right to be kept informed about the role of outside consultants in public sector labor relations. The purpose of this act is to help ensure that public information is available." [1993 c 18 § 1.]

43.09.240 Local government accounting—Public officers and employees—Duty to account and report—Removal from office—Deposit of collections. Every public officer and employee of a local government shall keep all accounts of his or her office in the form prescribed and make all reports required by the state auditor. Any public officer or employee who refuses or willfully neglects to perform such duties shall be subject to removal from office in an appropriate proceeding for that purpose brought by the attorney general or by any prosecuting attorney.

Every public officer and employee, whose duty it is to collect or receive payments due or for the use of the public shall deposit such moneys collected or received by him or her with the treasurer of the local government once every twenty-four consecutive hours. The treasurer may in his or her discretion grant an exception where such daily transfers would not be administratively practical or feasible as long as the treasurer has received a written request from the department, district, or agency, and where the department, district, or agency certifies that the money is held with proper safekeeping and that the entity carries out proper theft protection to reduce risk of loss of funds. Exceptions granted by the treasurer shall state the frequency with which deposits are required as long as no exception exceeds a time period greater than one deposit per week.

In case a public officer or employee collects or receives funds for the account of a local government of which he or she is an officer or employee, the treasurer shall, by Friday of each week, pay to the proper officer of the local government

for the account of which the collection was made or payment received, the full amount collected or received during the current week for the account of the district. [2002 c 168 § 3; 1995 c 301 § 13; 1991 c 245 § 13; 1965 c 8 § 43.09.240. Prior: 1963 c 209 § 2; 1911 c 30 § 1; 1909 c 76 § 6; RRS § 9956; prior: 1890 p 638 § 11; Code 1881 § 2577; 1854 p 411 § 7.]

43.09.245 Local government accounting—Examination of financial affairs. The state auditor has the power to examine all the financial affairs of every local government and its officers and employees. [1995 c 301 § 14.]

43.09.260 Local government accounting—Examination of local governments—Reports—Action by attorney general. (1) The examination of the financial affairs of all local governments shall be made at such reasonable, periodic intervals as the state auditor shall determine. However, an examination of the financial affairs of all local governments shall be made at least once in every three years, and an examination of individual local government health and welfare benefit plans and local government self-insurance programs shall be made at least once every two years.

(2) During the 2009-2011 fiscal biennium, the state auditor shall conduct audits no more often than once every two years of local governments with annual general fund revenues of ten million dollars or less and no findings of impropriety for the three-year period immediately preceding the audit period. This subsection does not prohibit the state auditor from conducting audits: (a) To address suspected fraud or irregular conduct; (b) at the request of the local government governing body; or (c) as required by federal laws or regulations.

(3) The term local governments for purposes of this chapter includes but is not limited to all counties, cities, and other political subdivisions, municipal corporations, and quasi-municipal corporations, however denominated.

(4) The state auditor shall establish a schedule to govern the auditing of local governments which shall include: A designation of the various classifications of local governments; a designation of the frequency for auditing each type of local government; and a description of events which cause a more frequent audit to be conducted.

(5) On every such examination, inquiry shall be made as to the financial condition and resources of the local government; whether the Constitution and laws of the state, the ordinances and orders of the local government, and the requirements of the state auditor have been properly complied with; and into the methods and accuracy of the accounts and reports.

(6) A report of such examination shall be made and filed in the office of state auditor, and one copy shall be transmitted to the local government. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general. If any such report discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute, in the proper county, such legal action as is proper in the premises by civil process and prosecute the

same to final determination to carry into effect the findings of the examination.

(7) It shall be unlawful for any local government or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action, without the written approval and consent of the attorney general and the state auditor. [2009 c 564 § 927; 1995 c 301 § 15; 1991 sp.s. c 30 § 26; 1979 c 71 § 1; 1965 c 8 § 43.09.260. Prior: 1909 c 76 § 8; RRS § 9958.]

School district budgeting violations not to affect duties of attorney general under RCW 43.09.260: RCW 28A.505.150.

Additional notes found at www.leg.wa.gov

43.09.270 Local government accounting—Expense of audit, what constitutes. The expense of auditing local governments and those expenses directly related to prescribing accounting systems, training, maintenance of working capital including reserves for late and uncollectible accounts and necessary adjustments to billings, and field audit supervision, shall be considered expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service. [1995 c 301 § 17; 1993 c 315 § 1; 1991 sp.s. c 16 § 920; 1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

Additional notes found at www.leg.wa.gov

43.09.280 Local government accounting—Expense of examination. The expense of auditing public accounts shall be borne by each entity subject to such audit for the auditing of all accounts under its jurisdiction and the state auditor shall certify the expense of such audit to the fiscal or warrant-issuing officer of such entity, who shall immediately make payment to the state auditor. If the expense as certified is not paid by any local government within thirty days from the date of certification, the state auditor may certify the expense to the auditor of the county in which the local government is situated, who shall promptly issue his or her warrant on the county treasurer payable out of the current expense fund of the county, which fund, except as to auditing the financial affairs and making inspection and examination of the county, shall be reimbursed by the county auditor or chief financial officer designated in a charter county out of the money due the local government at the next monthly settlement of the collection of taxes and shall be transferred to the current expense fund. [2009 c 337 § 14; 1995 c 301 § 18; 1979 c 71 § 2; 1965 c 8 § 43.09.280. Prior: 1963 c 209 § 5; 1911 c 30 § 1; 1909 c 76 § 11; RRS § 9961.]

43.09.2801 Local government accounting—Expense of audit—Additional charge. (1) From July 1, 1992, to June 30, 1995, the state auditor shall charge an entity subject to an audit an additional ten cents per hour billed under RCW 43.09.270 and 43.09.280, to be deposited in the local government administrative hearings account.

(2) After June 30, 1995, the state auditor shall base the amount to be collected and deposited into the local government administrative hearings account on the funds remaining

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in the account on June 30, 1995, and the anticipated caseload for the future.

(3) The state auditor may exempt a local government that certifies that it is in compliance with RCW 42.41.050 from a charge added under subsection (1) or (2) of this section. [1995 c 301 § 19; 1992 c 44 § 11.]

Local government administrative hearings account: RCW 42.41.060.

Additional notes found at www.leg.wa.gov

43.09.281 Appeal procedure to be adopted—Inclusion of number and disposition of appeals in annual report. The state auditor shall adopt appropriate rules pursuant to chapter 34.05 RCW, the administrative procedure act, to provide a procedure whereby a *taxing district may appeal charges levied under RCW 43.09.280. Such procedure shall provide for an administrative review process and an external review process which shall be advisory to the state auditor's office. The number of appeals and their disposition shall be included in the auditor's annual report. [1982 c 206 § 3.]

*Reviser's note: "Taxing district" was redesignated "local government" by 1995 c 301 § 18.

43.09.282 Local government accounting—Municipal revolving account—Records of auditing costs. For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on local governments by the state auditor, there is hereby created an account entitled the municipal revolving account. The state treasurer shall be custodian of the account. All moneys received by the state auditor or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal revolving account. Only the state auditor or the auditor's designee may authorize expenditures from the account. No appropriation is required for expenditures. The state auditor shall keep such records as are necessary to detail the auditing costs attributable to the various types of local governments. During the 2009-2011 fiscal biennium, the state auditor shall reduce the municipal revolving account charges for financial audits performed on local governments by five percent. [2009 c 564 § 928; 2008 c 328 § 6007; 1995 c 301 § 20; 1982 c 206 § 2; 1965 c 8 § 43.09.282. Prior: 1963 c 209 § 6.]

Additional notes found at www.leg.wa.gov

43.09.285 Joint operations by municipal corporations or political subdivisions—Deposit and control of funds. Whenever by law, two or more municipal corporations or political subdivisions of the state are permitted by law to engage in a joint operation, the funds of such joint operation shall be deposited in the public treasury of the municipal corporation or political subdivision embracing the largest population or the public treasury of any other as so agreed upon by the parties; and such deposit shall be subject to the same audit and fiscal controls as the public treasury where the funds are so deposited: PROVIDED, That whenever the laws applicable to any particular joint operation specifically state a contrary rule for deposits, the specific rule shall apply in lieu of the provisions of this section: PROVIDED, FURTHER, That nothing contained herein shall be construed as limiting the power or authority of the disbursing officer of such joint operation from making disbursements in accordance with the provisions of any contract or agreement

entered into between the parties to the joint operation. [1967 c 41 § 1.]

43.09.2851 Repayment of amounts charged to another fund within same political subdivision to be credited to original fund or appropriation—Expenditure. Except as otherwise provided by law, amounts charged by a county, city, or other municipal or quasi municipal corporation for providing services or furnishing materials to or for another fund within the same county, city, or other municipal or quasi municipal corporation pursuant to RCW 43.09.210 or other law shall be repaid and credited to the fund or appropriation against which the expenditure originally was charged. Amounts representing a return of expenditures from an appropriation shall be considered as returned loans of services or goods, supplies, or other materials furnished and may be expended as part of the original appropriation to which they belong, without further or additional appropriation.

Except as otherwise provided by law, this section shall not apply to the furnishing of materials or services by one fund to another when other funds have been provided specifically for that purpose pursuant to law. [1981 c 39 § 1. Formerly RCW 39.58.160.]

43.09.2853 Municipal corporations authorized to establish line of credit for payment of warrants—Interest. Any municipal corporation is authorized to establish a line of credit with any *qualified public depository to be drawn upon for cashing its warrants, to delegate to a fiscal officer authority to determine the amount of credit extended, and to pay interest and other finance or service charges. The interest rate may be a fixed rate set periodically or a fluctuating rate determined by agreement of the parties. If any warrant of a municipal corporation is presented and not paid for lack of funds, the interest rate set on unpaid warrants shall apply. Nothing in this section affects the priority for payment of warrants established by law. [1981 c 156 § 37. Formerly RCW 39.58.170.]

*Reviser's note: The term "qualified public depository" was redefined as "public depository" by 1996 c 256 § 1.

43.09.2855 Local governments—Use of credit cards. (1) Local governments, including counties, cities, towns, special purpose districts, municipal and quasi-municipal corporations, and political subdivisions, are authorized to use credit cards for official government purchases and acquisitions.

(2) A local government may contract for issuance of the credit cards.

(3) The legislative body shall adopt a system for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of credit card funds;
- (c) The credit limits available on the credit cards;
- (d) Payment of the bills; and
- (e) Any other rule necessary to implement or administer the system under this section.

(4) As used in this section, "credit card" means a card or device issued under an arrangement pursuant to which the

issuer gives to a cardholder the privilege of obtaining credit from the issuer.

(5) Any credit card system adopted under this section is subject to examination by the state auditor's office pursuant to chapter 43.09 RCW.

(6) Cash advances on credit cards are prohibited. [1995 c 30 § 2. Formerly RCW 39.58.180.]

Findings—1995 c 30: "The legislature finds that (1) the use of credit cards is a customary and economical business practice to improve cash management, reduce costs, and increase efficiency; and (2) local governments should consider and use credit cards when appropriate." [1995 c 30 § 1.]

43.09.2856 School district audits—School district compliance with RCW 28A.150.276 and 28A.505.240—Report of findings. (1) Beginning with the 2019-20 school year, to ensure that school district local revenues are used solely for purposes of enriching the state's statutory program of basic education, the state auditor's regular financial audits of school districts must include a review of the expenditure of school district local revenues for compliance with RCW 28A.150.276, including the spending plan approved by the superintendent of public instruction under RCW 28A.505.240 and its implementation, and any supplemental contracts entered into under RCW 28A.400.200. The audit must also include a review of the expenditure schedule and supporting documentation required by RCW 28A.320.330(1)(c).

(2) If an audit under subsection (1) of this section results in findings that a school district has failed to comply with these requirements, then within ninety days of completing the audit the auditor must report the findings to the superintendent of public instruction, the office of financial management, and the education and operating budget committees of the legislature. If the superintendent of public instruction receives a report of findings from the state auditor that an expenditure of a school district is out of compliance with the requirements of RCW 28A.150.276, and the finding is not resolved in the subsequent audit, the maximum taxes levied for collection by the school district under RCW 84.52.0531 in the following calendar year shall be reduced by the expenditure amount identified by the state auditor.

(3) The use of the state allocation provided for professional learning under RCW 28A.150.415 must be audited as part of the regular financial audits of school districts by the state auditor's office to ensure compliance with the limitations and conditions of RCW 28A.150.415. [2019 c 410 § 4; (2019 c 387 § 5 expired December 1, 2021); 2018 c 266 § 406; 2017 3rd sp.s. c 13 § 503.]

Expiration date—2019 c 387 § 5: "Section 5 of this act expires December 1, 2021." [2019 c 387 § 6.]

Intent—Findings—2019 c 387: See note following RCW 28A.150.392.

Intent—2017 3rd sp.s. c 13: See note following RCW 28A.150.410.

AGENCY AUDITS

43.09.290 Post-audit of state agencies—Definitions. For the purposes of RCW 43.09.290 through 43.09.340 and 43.09.410 through 43.09.418, post-audit means an audit of the books, records, funds, accounts, and financial transactions of a state agency for a complete fiscal period; pre-audit means all other audits and examinations; state agency means

elective officers and offices, and every other office, officer, department, board, council, committee, commission, or authority of the state government now existing or hereafter created, supported, wholly or in part, by appropriations from the state treasury or funds under its control, or by the levy, assessment, collection, or receipt of fines, penalties, fees, licenses, sales of commodities, service charges, rentals, grants-in-aid, or other income provided by law, and all state educational, penal, reformatory, charitable, eleemosynary, or other institutions, supported, wholly or in part, by appropriations from the state treasury or funds under its control, but not including a comprehensive cancer center participating in a collaborative arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930. [2022 c 71 § 7; 1995 c 301 § 21; 1981 c 336 § 6; 1965 c 8 § 43.09.290. Prior: 1941 c 196 § 1; Rem. Supp. 1941 § 11018-1.]

Findings—Intent—2022 c 71: See note following RCW 28B.10.930.

Petty cash: RCW 42.26.080.

Post-audit duties, budget and accounting system: RCW 43.88.160.

Additional notes found at www.leg.wa.gov

43.09.310 Audit of statewide combined financial statements—Post-audits of state agencies—Periodic audits—Reports—Filing. (1) Except as provided in subsection (2) of this section, the state auditor shall annually audit the statewide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the joint legislative audit and review committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general and shall be subject to the process provided in RCW 43.09.312.

(2) Audits of the department of labor and industries must be coordinated with the audits required under RCW 51.44.115 to avoid duplication of audits. [2017 c 66 § 1; 2005 c 387 § 2; 1996 c 288 § 35; 1995 c 301 § 22; 1981 c 217 § 1; 1979 c 151 § 92; 1975-'76 2nd ex.s. c 17 § 1. Prior: 1975 1st ex.s. c 293 § 1; 1975 1st ex.s. c 193 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310; prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

Reports of post-audits: RCW 43.88.160.

Additional notes found at www.leg.wa.gov

43.09.312 Post-audits of state agencies under RCW 43.09.310—Noncompliance—Remediation—Referral to attorney general. (1) Within thirty days of receipt of an audit under RCW 43.09.310 containing findings of noncom-

pliance with state law, the subject state agency shall submit a response and a plan for remediation to the office of financial management. Within sixty days of receipt of an audit under RCW 43.09.310 containing findings of noncompliance with state law, the office of financial management shall submit the subject state agency's response and a plan for remediation to the governor, the state auditor, the joint legislative audit and review committee, and the relevant fiscal and policy committees of the senate and house of representatives.

(2) If, at the next succeeding audit of the subject state agency, the state auditor determines that the subject state agency has failed to make substantial progress in remediating the noncompliance with state law, the state auditor shall notify the entities specified in subsection (1) of this section.

(3) Upon receipt of a notification under subsection (2) of this section, a fiscal or policy committee of the senate or house of representatives may refer the matter to the senate committee on facilities and operations or the executive rules committee of the house of representatives, which committee may refer the matter to the attorney general for appropriate legal action under RCW 43.09.330. [2017 c 66 § 2.]

43.09.330 Audit disclosing malfeasance or nonfeasance—Action by attorney general. If any audit of a state agency discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his or her copy of the report, the attorney general shall institute and prosecute in the proper county, appropriate legal action to carry into effect the findings of such post-audit. It shall be unlawful for any state agency or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action without the written approval and consent of the attorney general and the state auditor. [1995 c 301 § 23; 1965 c 8 § 43.09.330. Prior: 1941 c 196 § 5; Rem. Supp. 1941 § 11018-5.]

43.09.340 Post-audit of books of state auditor. The governor shall, at least every two years, provide for a post-audit of the books, accounts, and records of the state auditor, and the funds under his or her control, to be made either by independent qualified public accountants or the director of financial management, as he or she may determine. The expense of making such audit shall be paid from appropriations made therefor from the general fund. [1995 c 301 § 24; 1979 c 151 § 93; 1965 c 8 § 43.09.340. Prior: 1947 c 114 § 2; 1941 c 196 § 6; Rem. Supp. 1947 § 11018-6.]

43.09.410 Auditing services revolving account—Created—Purpose. An auditing services revolving account is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the audits provided to state agencies by the state auditor and audits of the state employee whistleblower program under RCW 42.40.110. [1999 c 361 § 9; 1995 c 301 § 25; 1981 c 336 § 1.]

Additional notes found at www.leg.wa.gov

43.09.412 Auditing services revolving account—Transfers and payments into account—Allotments to state auditor. The amounts to be disbursed from the auditing services revolving account shall be paid from funds appropriated to any and all state agencies for auditing services or administrative expenses. State agencies operating in whole or in part from nonappropriated funds shall pay into the auditing services revolving account such funds as will fully reimburse funds appropriated to the state auditor for auditing services provided.

The director of financial management shall allot all such funds to the state auditor for the operation of his or her office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other state agencies headed by elected officers under chapter 43.88 RCW. [1995 c 301 § 26; 1987 c 165 § 1; 1981 c 336 § 2.]

Additional notes found at www.leg.wa.gov

43.09.414 Auditing services revolving account—Disbursements. Disbursements from the auditing services revolving account shall be made pursuant to vouchers executed by the state auditor or his or her designee in accordance with RCW 43.09.412. [1995 c 301 § 27; 1981 c 336 § 3.]

Additional notes found at www.leg.wa.gov

43.09.416 Auditing services revolving account—Allocation of costs to funds, accounts, and agencies—Billing rate. The state auditor shall keep such records as are necessary to facilitate proper allocation of costs to funds and accounts and state agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and accounts and state agencies served. The billing rate shall be established based on costs incurred in the prior biennium and anticipated costs in the new biennium. Those expenses related to training, maintenance of working capital including reserves for late and uncollectible accounts, and necessary adjustments to billings, shall be considered as expenses of auditing public accounts. Working capital shall not exceed five percent of the auditing services revolving account appropriation. [1995 c 301 § 28; 1987 c 165 § 2; 1981 c 336 § 4.]

Additional notes found at www.leg.wa.gov

43.09.418 Auditing services revolving account—Direct payments from state agencies. In cases where there are unanticipated demands for auditing services or where there are insufficient funds on hand or available for payment through the auditing services revolving account or in other cases of necessity, the state auditor may request payment for auditing services directly from state agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the state agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1995 c 301 § 29; 1981 c 336 § 5.]

Additional notes found at www.leg.wa.gov

43.09.420 Audit of revolving, local, and other funds and accounts. As part of the routine audits of state agencies, the state auditor shall audit all revolving funds, local funds,

and other state funds and state accounts that are not managed by or in the care of the state treasurer and that are under the control of state agencies, including but not limited to state departments, boards, and commissions. In conducting the audits of these funds and accounts, the auditor shall examine revenues and expenditures or assets and liabilities, accounting methods and procedures, and recordkeeping practices. [2022 c 148 § 3; 1993 c 216 § 1.]

43.09.430 Performance audits—Definition. For purposes of this chapter, "preliminary performance audit report" means a written document prepared after the completion of a performance audit to be submitted for comment before the final performance audit report. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency being audited. [2022 c 148 § 4; 2005 c 385 § 2.]

43.09.440 Performance audits—Comments. The state auditor must solicit comments on preliminary performance audit reports from the audited state agency, the office of the governor, and the office of financial management. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. All comments shall be incorporated into the final performance audit report. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; conclusions; and identification of best practices. [2022 c 148 § 5; 2012 c 229 § 817; 2005 c 385 § 5.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

43.09.455 Performance audits—Follow-up and corrective action—Progress reports. The audited agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

For agencies under the authority of the governor, the governor may require periodic progress reports from the audited agency until all resolution has occurred.

For agencies under the authority of an elected official other than the governor, the appropriate elected official may require periodic reports of the action taken by the audited agency until all resolution has occurred. [2022 c 148 § 6; 2005 c 385 § 9.]

43.09.465 Comprehensive performance audit of state printing services. By November 1, 2016, building on the findings of the 2011 audit, the state auditor shall conduct a comprehensive performance audit of state printing services in

accordance with RCW 43.09.470. Following the audit in 2016, the state auditor shall conduct follow-up audits as deemed necessary to ensure effective implementation of chapter 43, Laws of 2011 1st sp. sess. [2011 1st sp.s. c 43 § 310.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.09.466 Comprehensive performance audit of statewide sexual assault tracking system. (Expires July 1, 2023.) (1) After January 1, 2022, the auditor shall conduct a comprehensive performance audit of the statewide sexual assault tracking system under RCW 43.43.545 and the operations of the Washington state patrol crime laboratory with respect to processing sexual assault kits. In addition to other measures established by the auditor, the performance audit shall assess:

(a) Whether the Washington state patrol is operating the statewide sexual assault kit tracking system in accordance with RCW 43.43.545 and best practices; and

(b) Whether the Washington state patrol crime laboratory has taken actions consistent with best practices, chapter 70.125 RCW, and related state budgetary requirements to address testing backlogs and otherwise improve efficiency and efficacy of sexual assault kit testing.

(2) The auditor shall complete the audit and publish a report with its findings no later than December 31, 2022.

(3) This section expires July 1, 2023. [2019 c 93 § 3.]

43.09.470 Comprehensive performance audits—Scope—Reports. In addition to audits authorized under RCW 43.88.160, the state auditor shall conduct independent, comprehensive performance audits of state government and each of its agencies, accounts, and programs; local governments and each of their agencies, accounts, and programs; state and local education governmental entities and each of their agencies, accounts, and programs; state and local transportation governmental entities and each of their agencies, accounts, and programs; and other governmental entities, agencies, accounts, and programs. The term "government" means an agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. This includes individual agencies and programs, as well as those programs and activities that cross agency lines. "Government" includes all elective and nonelective offices in the executive branch and includes the judicial and legislative branches. The state auditor shall review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts. These performance audits shall be conducted in accordance with the United States general accounting office government auditing standards. The scope for each performance audit shall not be limited and shall include nine specific elements: (1) Identification of cost savings; (2) identification of services that can be reduced or eliminated; (3) identification of programs or services that can be transferred to the private sector; (4) analysis of gaps or overlaps in programs or services and recommendations to correct gaps or overlaps; (5) feasibility of pooling information technology systems within the department; (6) analysis of the roles and functions of the depart-

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ment, and recommendations to change or eliminate departmental roles or functions; (7) recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions; (8) analysis of departmental performance data, performance measures, and self-assessment systems; and (9) identification of best practices. The state auditor may contract out any performance audits. For counties and cities, the audit may be conducted as part of audits otherwise required by state law. Each audit report shall be submitted to the corresponding legislative body or legislative bodies and made available to the public on or before thirty days after the completion of each audit or each follow-up audit. On or before thirty days after the performance audit is made public, the corresponding legislative body or legislative bodies shall hold at least one public hearing to consider the findings of the audit and shall receive comments from the public. The state auditor is authorized to issue subpoenas to governmental entities for required documents, memos, and budgets to conduct the performance audits. The state auditor may, at any time, conduct a performance audit to determine not only the efficiency, but also the effectiveness, of any government agency, account, or program. No legislative body, officeholder, or employee may impede or restrict the authority or the actions of the state auditor to conduct independent, comprehensive performance audits. To the greatest extent possible, the state auditor shall instruct and advise the appropriate governmental body on a step-by-step remedy to whatever ineffectiveness and inefficiency is discovered in the audited entity. For performance audits of state government and its agencies, programs, and accounts, the legislature must consider the state auditor reports in connection with the legislative appropriations process. An annual report will be submitted by the joint legislative audit and review committee by July 1st of each year detailing the status of the legislative implementation of the state auditor's recommendations. Justification must be provided for recommendations not implemented. Details of other corrective action must be provided as well. For performance audits of local governments and their agencies, programs, and accounts, the corresponding legislative body must consider the state auditor reports in connection with its spending practices. An annual report will be submitted by the legislative body by July 1st of each year detailing the status of the legislative implementation of the state auditor's recommendations. Justification must be provided for recommendations not implemented. Details of other corrective action must be provided as well. The people encourage the state auditor to aggressively pursue the largest, costliest governmental entities first but to pursue all governmental entities in due course. Follow-up performance audits on any state and local government, agency, account, and program may be conducted when determined necessary by the state auditor. Revenues from the performance audits of government account, created in RCW 43.09.475, shall be used for the cost of the audits. [2006 c 1 § 2 (Initiative Measure No. 900, approved November 8, 2005).]

Policies and purposes—2006 c 1 (Initiative Measure No. 900): "It is essential that state and local governments establish credibility with the taxpayers by implementing long-overdue performance audits to ensure accountability and guarantee that tax dollars are spent as cost-effectively as possible. Are politicians spending our current tax revenues as cost-effectively as possible? Voters don't know because politicians have repeatedly blocked our

state auditor from conducting independent, comprehensive performance audits on state and local governments, agencies, programs, and accounts. Currently, Washington is the only state in the nation that prohibits the independently elected state auditor from doing the job he or she was hired to do without explicit legislative permission. This handicap is costing the taxpayers billions of dollars in potential savings. Thankfully, this common sense initiative remedies this egregious failure of politicians to enact this reform. It is absurd for politicians to unilaterally impose tax increases or to seek voter approval for tax increases without first learning if we're getting the biggest bang for the buck from our current tax revenues. This measure requires the state auditor to conduct independent, comprehensive performance audits on state and local governments, agencies, programs, and accounts. This act dedicates a portion of the state's existing sales and use tax (1/100th of 1%) to fund these comprehensive performance audits. Similar performance reviews in Texas have saved taxpayers there nine billion dollars out of nineteen billion dollars in identified savings over the past decade. The performance audits required by this common sense initiative will identify solutions to our public policy problems, saving the taxpayers billions of dollars." [2006 c 1 § 1 (Initiative Measure No. 900, approved November 8, 2005).]

Additional notes found at www.leg.wa.gov

43.09.471 Short title—Effective date—2006 c 1 (Initiative Measure No. 900). This act shall be called the performance audits of government act and takes effect December 8, 2005. [2006 c 1 § 10 (Initiative Measure No. 900, approved November 8, 2005).]

Policies and purposes—Construction—Severability—Part headings not law—2006 c 1 (Initiative Measure No. 900): See notes following RCW 43.09.470.

43.09.475 Performance audits of government account. The performance audits of government account is hereby created in the custody of the state treasurer. Revenue identified in RCW 82.08.020(5) and 82.12.0201 shall be deposited in the account. Money in the account shall be used to fund the performance audits and follow-up performance audits under RCW 43.09.470 and shall be expended by the state auditor in accordance with chapter 1, Laws of 2006. Only the state auditor or the state auditor's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The performance audits of government account may be appropriated for the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and for the office of financial management's performance audit and compliance audit activities. During the 2019-2021 and 2021-2023 fiscal biennia, the performance audits of government account may be appropriated for the superintendent of public instruction, the department of fish and wildlife, and audits of school districts. In addition, during the 2019-2021 and 2021-2023 fiscal biennia the account may be used to fund the office of financial management's contract for the compliance audit of the state auditor and audit activities at the department of revenue. [2022 c 157 § 14; 2021 c 334 § 970; 2019 c 415 § 963; 2017 3rd sp.s. c 1 § 967; 2016 sp.s. c 36 § 925; 2015 3rd sp.s. c 4 § 954; 2013 2nd sp.s. c 4 § 974; 2011 1st sp.s. c 50 § 942; 2009 c 564 § 929; 2006 c 1 § 5 (Initiative Measure No. 900, approved November 8, 2005).]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Policies and purposes—Construction—Severability—Part headings not law—2006 c 1 (Initiative Measure No. 900): See notes following RCW 43.09.470.

Additional notes found at www.leg.wa.gov

43.09.480 Long-term services and supports trust program—Audit—Report. By December 1, 2032, the state auditor must conduct a comprehensive evaluation of the long-term services and supports trust program established in chapter 50B.04 RCW and deliver a report, including a conclusion and recommendations for improvement to the legislature regarding:

(1) Program operations, including the performance of the long-term services and supports trust commission established in RCW 50B.04.030;

(2) Program financial status, including solvency, the value of the benefit provided, and the financial balance of program benefits to costs;

(3) The overall efficacy of the program, based on the established goals under chapter 363, Laws of 2019 including, but not limited to:

(a) Delaying middle class families' need to spend to poverty to receive medicaid-funded long-term care;

(b) Strengthening the state economy through improving workforce participation;

(c) Reducing the caseload and expenditures of the state medicaid program on long-term care; and

(d) Obtaining shared savings through a medicaid demonstration waiver. [2019 c 363 § 18.]

Chapter 43.10 RCW ATTORNEY GENERAL

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- Insurance code, representation of commissioner:* RCW 48.02.080.
- Irrigation districts, certification of bonds, legality of:* RCW 87.25.030.
- Juvenile court, orders of support, enforcement by:* RCW 13.34.161.
- Liability coverage of university personnel and students, approval of claims by attorney general, when:* RCW 28B.20.253.
- Liquor and cannabis board, general counsel for:* RCW 66.08.022.
- Local government accounting, duties concerning:* RCW 43.09.260.
- Manufactured/mobile home community dispute resolution program, administration of:* Chapter 59.30 RCW.
- Militia and military affairs*
eminent domain for military purposes: *RCW 8.04.170, 8.04.180.*
officers and enlisted persons, attorney general to defend actions against: *RCW 38.40.010.*
- Motor freight carriers, violations, attorney general to assign assistant to enforce compliance:* RCW 81.80.330.
- Motor vehicle dealers' licenses, attorney general to approve applicant's surety bond accompanying application for:* RCW 46.70.070.
- Natural resources department, counsel for:* RCW 78.52.035.
- Oath of office:* RCW 43.01.020, 43.10.010.
- Official bond:* RCW 43.10.010, 43.10.020.
- Poisons, enforcement of law relating to:* RCW 69.40.025.
- Puget Sound ferry and toll bridge system, attorney general's powers and duties relating to:* Chapter 47.60 RCW.
- Railroad employees' sanitation and shelter requirements, enforcement by:* RCW 81.04.405.
- Real estate brokers and salespersons' licensing, to act as legal advisor:* RCW 18.85.420.
- Records, keeping of:* *State Constitution Art. 3 § 24;* RCW 43.10.030.
- Records committee, to appoint a member of:* RCW 40.14.050.
- Removal from office, grounds:* *State Constitution Art. 4 § 9.*
- Salary, amount of:* *State Constitution Art. 28 § 1;* RCW 43.03.010.

Schools and school districts, supervision of prosecuting attorney: RCW 36.27.020.

Securities act violations referred to: RCW 21.20.410.

Social and health services department, representation, hospital regulation: RCW 70.41.160.

State board for volunteer firefighters and reserve officers, to advise: RCW 41.24.280.

State board of health, representation, hospital regulation: RCW 70.41.160.

State officers, defends actions against: RCW 4.92.070, 43.10.030.

Steamboat company penalties, recovery action by attorney general: RCW 81.84.050.

Subversive activities act, duties as to: Chapter 9.81 RCW.

Succession: State Constitution Art. 3 § 10.

Support of dependent children

agreements between attorney general and prosecuting attorneys to initiate petition for support under uniform act: RCW 74.20.210.

divorce or separate maintenance actions, attorney general or prosecuting attorney to initiate an action: RCW 74.20.220.

petition for order upon husband to provide support, attorney general may apply for, when: RCW 74.20.230.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Term papers, theses, dissertations, sale of prohibited, attorney general participation: RCW 28B.10.584.

Tort claims against state, authority to settle, compromise and stipulate for judgment: RCW 4.92.150.

Transfer of highway lands to United States, municipal subdivision or public utility, attorney general to adjudge if in public interest and certify: RCW 47.12.080.

Unemployment compensation, representation of department: RCW 50.12.150.

Unfair business practices act

assurance of discontinuance of practices, acceptance by: RCW 19.86.100.

restraint of prohibited acts, action by: RCW 19.86.080.

Utilities and transportation commission

compliance with law by persons or corporations regulated, duty to enforce: RCW 80.01.100, 80.04.510.

duty to represent: RCW 80.01.100, 80.04.510.

Vehicle wreckers' licensing, surety bonds accompanying application to be approved by: RCW 46.80.070.

Washington habitual traffic offenders act, attorney general's duties: Chapter 46.65 RCW.

43.10.005 Workplace pregnancy accommodations—Unfair practices—Definitions. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Employer" has the same meaning as and shall be interpreted consistent with how that term is defined in RCW 49.60.040, except that for the purposes of this section only the threshold of employees must be fifteen or more.

(b) "Pregnancy" includes the employee's pregnancy and pregnancy-related health conditions, including the need to express breast milk.

(c) "Reasonable accommodation" means:

(i) Providing more frequent, longer, or flexible restroom breaks;

(ii) Modifying a no food or drink policy;

(iii) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;

(iv) Providing seating or allowing the employee to sit more frequently if her job requires her to stand;

(v) Providing for a temporary transfer to a less strenuous or less hazardous position;

(vi) Providing assistance with manual labor and limits on lifting;

(vii) Scheduling flexibility for prenatal visits;

(viii) Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs; and

(ix) Any further pregnancy accommodation an employee may request, and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department of labor and industries or the attending health care provider of the employee.

(d) "Undue hardship" means an action requiring significant difficulty or expense. An employer may not claim undue hardship for the accommodations under (c)(i), (ii), and (iv) of this subsection, or for limits on lifting over seventeen pounds.

(2) It is an unfair practice for any employer to:

(a) Fail or refuse to make reasonable accommodation for an employee for pregnancy, unless the employer can demonstrate that doing so would impose an undue hardship on the employer's program, enterprise, or business;

(b) Take adverse action against an employee who requests, declines, or uses an accommodation under this section that affects the terms, conditions, or privileges of employment;

(c) Deny employment opportunities to an otherwise qualified employee if such denial is based on the employer's need to make reasonable accommodation required by this section;

(d) Require an employee to take leave if another reasonable accommodation can be provided for the employee's pregnancy.

(3) An employer may request that the employee provide written certification from her treating health care professional regarding the need for reasonable accommodation, except for accommodations listed in subsection (1)(c)(viii) and (d) of this section.

(4)(a) This section does not require an employer to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

(b) This section does not require an employer to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need accommodation.

(5) The department of labor and industries must provide online education materials explaining the respective rights and responsibilities of employers and employees who have a health condition related to pregnancy or childbirth. The online education materials must be prominently displayed on the department's website.

(6) The attorney general shall investigate complaints and enforce this section, including by conference and conciliation. In addition to the complaint process with the attorney general, any person believed to be injured by a violation of this section has a civil cause of action in court to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit and reasonable attorneys' fees or any other appropriate remedy authorized by state or federal law.

(7) This section does not preempt, limit, diminish, or otherwise affect any other provision of law relating to sex discrimination or pregnancy, or in any way diminish or limit legal protections or coverage for pregnancy, childbirth, or a pregnancy-related health condition. [2020 c 111 § 1; 2019 c 134 § 1; 2017 c 294 § 3.]

Findings—2017 c 294: See note following RCW 74.09.475.

43.10.010 Qualifications—Oath—Bond. No person shall be eligible to be attorney general unless he or she is a qualified practitioner of the supreme court of this state.

Before entering upon the duties of his or her office, any person elected or appointed attorney general shall take, subscribe, and file the oath of office as required by law; take, subscribe, and file with the secretary of state an oath to comply with the provisions of RCW 43.10.115; and execute and file with the secretary of state, a bond to the state, in the sum of five thousand dollars, with sureties to be approved by the governor, conditioned for the faithful performance of his or her duties and the paying over of all moneys, as provided by law. [2009 c 549 § 5046; 1973 c 43 § 1; 1965 c 8 § 43.10.010. Prior: 1929 c 92 § 1, part; RRS § 11030, part; prior: 1921 c 119 § 1; 1888 p 7 § 4.]

Additional notes found at www.leg.wa.gov

43.10.020 Additional bond—Penalty for failure to furnish. If the governor deems any bond filed by the attorney general insufficient, he or she may require an additional bond for any amount not exceeding five thousand dollars.

If any attorney general fails to give such additional bond as required by the governor within twenty days after notice in writing of such requirement, his or her office may be declared vacant by the governor and filled as provided by law. [2009 c 549 § 5047; 1965 c 8 § 43.10.020. Prior: (i) 1929 c 92 § 1, part; RRS § 11030, part. (ii) 1929 c 92 § 2; RRS § 11031; prior: 1921 c 119 § 1; 1888 p 7 §§ 4, 5.]

43.10.030 General powers and duties. The attorney general shall:

(1) Appear for and represent the state before the supreme court or the court of appeals in all cases in which the state is interested;

(2) Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer;

(3) Defend all actions and proceedings against any state officer or employee acting in his or her official capacity, in any of the courts of this state or the United States;

(4) Consult with and advise the several prosecuting attorneys in matters relating to the duties of their office, and when the interests of the state require, he or she shall attend the trial

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of any person accused of a crime, and assist in the prosecution;

(5) Consult with and advise the governor, members of the legislature, and other state officers, and when requested, give written opinions upon all constitutional or legal questions relating to the duties of such officers;

(6) Prepare proper drafts of contracts and other instruments relating to subjects in which the state is interested;

(7) Give written opinions, when requested by either branch of the legislature, or any committee thereof, upon constitutional or legal questions;

(8) Enforce the proper application of funds appropriated for the public institutions of the state, and prosecute corporations for failure or refusal to make the reports required by law;

(9) Keep in proper books a record of all cases prosecuted or defended by him or her, on behalf of the state or its officers, and of all proceedings had in relation thereto, and deliver the same to his or her successor in office;

(10) Keep books in which he or she shall record all the official opinions given by him or her during his or her term of office, and deliver the same to his or her successor in office;

(11) Pay into the state treasury all moneys received by him or her for the use of the state. [2009 c 549 § 5048; 1975 c 40 § 5; 1971 c 81 § 109; 1965 c 8 § 43.10.030. Prior: (i) 1929 c 92 § 3; RRS § 112. (ii) 1929 c 92 § 4; RRS § 11032; prior: 1891 c 55 § 2; 1888 p 8 § 6.]

43.10.035 Prosecutions for official delinquencies in the assessment, collection and payment of revenue; failure to pay over or deliver public money or property; and against all debtors of the state. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(3) as now or hereafter amended, the attorney general shall direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state. [1977 ex.s. c 144 § 9.]

*Reviser's note: RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (3) to subsection (4).

43.10.040 Representation of boards, commissions and agencies. The attorney general shall also represent the state and all officials, departments, boards, commissions and agencies of the state in the courts, and before all administrative tribunals or bodies of any nature, in all legal or quasi legal matters, hearings, or proceedings, and advise all officials, departments, boards, commissions, or agencies of the state in all matters involving legal or quasi legal questions, except those declared by law to be the duty of the prosecuting attorney of any county. [1965 c 8 § 43.10.040. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

43.10.045 Retention of counsel by legislature—Notice—Representation in absence of notice. The legislature may employ or retain counsel of its own choosing. However, the legislature shall notify the attorney general whenever it makes a decision to use the services of such counsel to represent it or any of its members in a particular judicial or

administrative proceeding. With respect to any such proceeding where the legislature has not so notified the attorney general, the attorney general shall represent the legislature until so notified. For purposes of this section, "legislature" means the senate and house of representatives together. The major purposes of this section are to confirm and implement in statute law the constitutional power of the legislative branch to select its own counsel. [1986 c 323 § 1.]

43.10.050 Authority to execute appeal and other bonds. The attorney general may execute, on behalf of the state, any appeal or other bond required to be given by the state in any judicial proceeding to which it is a party in any court, and procure sureties thereon. [1965 c 8 § 43.10.050. Prior: 1929 c 92 § 6; RRS § 11034; prior: 1905 c 99 § 1.]

43.10.060 Appointment and authority of assistants. The attorney general may appoint necessary assistants who shall have the power to perform any act which the attorney general is authorized by law to perform. Subject to any collective bargaining agreement, assistants shall hold office at the attorney general's pleasure. [2019 c 145 § 6; 2009 c 549 § 5049; 1965 c 8 § 43.10.060. Prior: 1929 c 92 § 7, part; RRS § 11034-1, part.]

Findings—Intent—2019 c 145: See note following RCW 41.80.400.

43.10.065 Employment of attorneys and employees to transact state's legal business. The attorney general may employ or discharge attorneys and employees to transact for the state, its departments, officials, boards, commissions, and agencies, all business of a legal or quasi legal nature, except those declared by law to be the duty of the judge of any court, or the prosecuting attorney of any county. [1965 c 8 § 43.10.065. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part. Formerly RCW 43.10.060, part.]

43.10.067 Employment of attorneys by others restricted. No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to the administration of the commission on judicial conduct, the state law library, the law school of the state university, the administration of the state bar act by the Washington State Bar Association, or the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW.

The authority granted by chapter 1.08 RCW, RCW 44.28.065, and 47.01.061 shall not be affected hereby. [1997 c 41 § 9. Prior: 1987 c 364 § 1; 1987 c 186 § 7; prior: 1985 c 133 § 2; 1985 c 7 § 108; 1981 c 268 § 1; 1965 c 8 § 43.10.067; prior: (i) 1941 c 50 § 2; Rem. Supp. 1941 § 11034-4. (ii) 1941

c 50 § 4; Rem. Supp. 1941 § 11034-6. Formerly RCW 43.01.080.]

43.10.070 Compensation of assistants, attorneys, and employees. Subject to any collective bargaining agreement, the attorney general shall fix the compensation of all assistants, attorneys, and employees, and in the event they are assigned to any department, board, or commission, such department, board, or commission shall pay the compensation as fixed by the attorney general, not however in excess of the amount made available to the department by law for legal services. [2019 c 145 § 5; 1965 c 8 § 43.10.070. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

Findings—Intent—2019 c 145: See note following RCW 41.80.400.

43.10.080 Employment of experts, technicians. The attorney general may employ such skilled experts, scientists, technicians, or other specially qualified persons as he or she deems necessary to aid him or her in the preparation or trial of actions or proceedings. [2009 c 549 § 5050; 1965 c 8 § 43.10.080. Prior: 1941 c 50 § 3; Rem. Supp. 1941 § 11034-5.]

43.10.090 Criminal investigations—Supervision. Upon the written request of the governor, the attorney general shall investigate violations of the criminal laws within this state.

If, after such investigation, the attorney general believes that the criminal laws are improperly enforced in any county, and that the prosecuting attorney of the county has failed or neglected to institute and prosecute violations of such criminal laws, either generally or with regard to a specific offense or class of offenses, the attorney general shall direct the prosecuting attorney to take such action in connection with any prosecution as the attorney general determines to be necessary and proper.

If any prosecuting attorney, after the receipt of such instructions from the attorney general, fails or neglects to comply therewith within a reasonable time, the attorney general may initiate and prosecute such criminal actions as he or she shall determine. In connection therewith, the attorney general shall have the same powers as would otherwise be vested in the prosecuting attorney.

From the time the attorney general has initiated or taken over a criminal prosecution, the prosecuting attorney shall not have power or authority to take any legal steps relating to such prosecution, except as authorized or directed by the attorney general. [2009 c 549 § 5051; 1965 c 8 § 43.10.090. Prior: 1937 c 88 § 1; RRS § 112-1.]

Corporations, governor may require attorney general to investigate: RCW 43.06.010.

Prosecuting attorneys, governor may require attorney general to aid: RCW 43.06.010.

43.10.095 Homicide investigative tracking system—Supervision management and recidivist tracking (SMART) system. (1) There is created, as a component of the homicide investigative tracking system, a supervision management and recidivist tracking system called the SMART system. The office of the attorney general may contract with any state, local, or private agency necessary for implementation of and training for supervision management

and recidivist tracking program partnerships for development and operation of a statewide computer linkage between the attorney general's homicide investigative tracking system, local police departments, and the state department of corrections. Dormant information in the supervision management and recidivist tracking system shall be automatically archived after seven years. The department of corrections shall notify the attorney general when each person is no longer under its supervision.

(2) As used in this section, unless the context requires otherwise:

(a) "Dormant" means there have been no inquiries by the department of corrections or law enforcement with regard to an active supervision case or an active criminal investigation in the past seven years.

(b) "Archived" means information which is not in the active database and can only be retrieved for use in an active criminal investigation. [1998 c 223 § 2.]

Finding—1998 c 223: "The legislature finds that increased communications between local law enforcement officers and the state department of corrections' community corrections officers improves public safety through shared monitoring and supervision of offenders living in the community under the jurisdiction of the department of corrections.

Participating local law enforcement agencies and the local offices of the department of corrections have implemented the supervision management and recidivist tracking program, whereby each entity provides mutual assistance in supervising offenders living within the boundaries of local law enforcement agencies. The supervision management and recidivist tracking program has helped local law enforcement solve crimes faster or prevented future criminal activity by reporting offender's sentence violations in a more timely manner to community corrections officers by rapid and comprehensive electronic sharing of information regarding supervised offenders. The expansion of the supervision management and recidivist tracking program will improve public safety throughout the state." [1998 c 223 § 1.]

43.10.097 Homicide investigative tracking system—Purpose limited. The homicide investigative tracking system and the supervision management and recidivist tracking system are tools for the administration of criminal justice and these systems may not be used for any other purpose. [1998 c 223 § 3.]

Finding—1998 c 223: See note following RCW 43.10.095.

43.10.101 Report to transportation entities—Tort claims. The attorney general shall prepare annually a report to the transportation committees of the legislature, the governor, the department of transportation, and the transportation commission comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;
- (5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and
- (6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including

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any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims. [2006 c 334 § 14; 2005 c 319 § 104; 1995 2nd sp.s. c 14 § 527.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.10.110 Other powers and duties. The attorney general shall have the power and it shall be his or her duty to perform any other duties that are, or may from time to time be required of him or her by law. [2009 c 549 § 5052; 1965 c 8 § 43.10.110. Prior: 1929 c 92 § 8; RRS § 11034-2.]

43.10.115 Private practice of law—Attorney general—Prohibited. The attorney general shall not practice law for remuneration in his or her private capacity:

(1) As an attorney in any court of this state during his or her continuance in office; or

(2) As adviser or advocate for any person who may wish to become his or her client. [2009 c 549 § 5053; 1973 c 43 § 2.]

Additional notes found at www.leg.wa.gov

43.10.120 Private practice of law—Deputies and assistants—Prohibited. No full time deputy or assistant attorney general shall practice law for remuneration in his or her private capacity:

(1) As an attorney in any court of this state during his or her continuance in office; or

(2) As adviser or advocate for any person who may wish to become his or her client. [2009 c 549 § 5054; 1973 c 43 § 3.]

Additional notes found at www.leg.wa.gov

43.10.125 Private practice of law—Special assistant attorney generals. Special assistant attorney generals [attorneys general] employed on less than a full time basis to transact business of a legal or quasi legal nature for the state, such assistants and attorneys may practice law in their private capacity as attorney. [1973 c 43 § 4.]

Additional notes found at www.leg.wa.gov

43.10.130 Private practice of law—Exceptions. None of the provisions of RCW 43.10.010 and 43.10.115 through 43.10.125 shall be construed as prohibiting the attorney general or any of his or her full time deputies or assistants from:

(1) Performing legal services for himself or herself or his or her immediate family; or

(2) Performing legal services of a charitable nature. [2009 c 549 § 5055; 1973 c 43 § 5.]

Additional notes found at www.leg.wa.gov

43.10.150 Legal services revolving fund—Created—Purpose. A legal services revolving fund is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the legal services provided to agencies of the state government by the attorney general. During the 2013-2015 fiscal biennium, the legislature may transfer from the legal services revolving account to the state general fund such amounts as reflect the

excess fund balance of the account. [2013 2nd sp.s. c 4 § 975; 1974 ex.s. c 146 § 1; 1971 ex.s. c 71 § 1.]

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Legal services revolving fund—Approval of certain changes required: RCW 43.88.350.

Additional notes found at www.leg.wa.gov

43.10.160 Legal services revolving fund—Transfers and payments into fund—Allotments to attorney general. The amounts to be disbursed from the legal services revolving fund from time to time shall be transferred thereto by the state treasurer from funds appropriated to any and all agencies for legal services or administrative expenses on a quarterly basis. Agencies operating in whole or in part from non-appropriated funds shall pay into the legal services revolving fund such funds as will fully reimburse funds appropriated to the attorney general for any legal services provided activities financed by nonappropriated funds.

The director of financial management shall allot all such funds to the attorney general for the operation of his or her office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other agencies headed by elected officers under chapter 43.88 RCW. [2009 c 549 § 5056; 1979 c 151 § 94; 1974 ex.s. c 146 § 2; 1971 ex.s. c 71 § 2.]

Additional notes found at www.leg.wa.gov

43.10.170 Legal services revolving fund—Disbursements. Disbursements from the legal services revolving fund shall be pursuant to vouchers executed by the attorney general or his or her designee in accordance with the provisions of RCW 43.88.160. [2009 c 549 § 5057; 1971 ex.s. c 71 § 3.]

43.10.180 Legal services revolving fund—Allocation of costs to funds and agencies—Accounting—Billing. (1) The attorney general shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and agencies served. Billings shall be adjusted in line with actual costs incurred at intervals not to exceed six months.

(2) During the 2009-2011 fiscal biennium, all expenses for administration of the office of the attorney general shall be allocated to and paid from the legal services revolving fund in accordance with accounting procedures prescribed by the director of financial management. [2009 c 564 § 930; 2007 c 522 § 951; 2005 c 518 § 927; 2003 1st sp.s. c 25 § 917; 1979 c 151 § 95; 1974 ex.s. c 146 § 3; 1971 ex.s. c 71 § 4.]

Additional notes found at www.leg.wa.gov

43.10.190 Legal services revolving fund—Direct payments from agencies. In cases where there are unanticipated demands for legal services or where there are insufficient funds on hand or available for payment through the legal services revolving fund or in other cases of necessity, the attorney general may request payment for legal services directly from agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the agency

shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1979 c 151 § 96; 1971 ex.s. c 71 § 5.]

43.10.200 Legal services revolving fund—Recovered court costs, fees and expenses—Deposit in fund—Expenditure. Court costs, attorneys' fees, and other expenses recovered by the attorney general shall be deposited in the legal services revolving fund and shall be considered as returned loans of materials supplied or services rendered. Such amounts may be expended in the same manner and under the same conditions and restrictions as set forth in section 11, chapter 282, Laws of 1969 ex. sess. [1971 ex.s. c 71 § 6.]

43.10.210 Antitrust revolving fund—Legislative finding and purpose. The legislature having found that antitrust laws and the enforcement thereof are necessary for the protection of consumers and businesses, and further that the creation of an antitrust revolving fund provides a reasonable means of funding antitrust actions by the attorney general, and that the existence of such a fund increases the possibility of obtaining funding from other sources, now therefore creates the antitrust revolving fund. [1974 ex.s. c 162 § 1.]

43.10.215 Antitrust revolving fund—Created—Contents. There is hereby created the antitrust revolving fund in the custody of the state treasurer which shall consist of: Funds appropriated to the revolving fund, funds transferred to the revolving fund pursuant to a court order or judgment in an antitrust action; gifts or grants made to the revolving fund; and funds awarded to the state or any agency thereof for the recovery of costs and attorney fees in an antitrust action: PROVIDED HOWEVER, That to the extent that such costs constitute reimbursement for expenses directly paid from constitutionally dedicated funds, such recoveries shall be transferred to the constitutionally dedicated fund. [1974 ex.s. c 162 § 2.]

43.10.220 Antitrust revolving fund—Expenditures. The attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of antitrust actions under the state and federal antitrust acts. During the 2015-2017 fiscal biennium, the attorney general may expend from the antitrust revolving fund for the purposes of the consumer protection activities of the office. [2016 sp.s. c 36 § 926; 2002 c 371 § 907; 1999 c 309 § 916; 1974 ex.s. c 162 § 3.]

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Additional notes found at www.leg.wa.gov

43.10.230 Purpose. The purpose of RCW 43.10.232 is to grant authority to the attorney general concurrent with the county prosecuting attorneys to investigate and prosecute crimes. The purpose of *RCW 43.10.234 is to insure access by the attorney general to the procedural powers of the various prosecuting attorneys in exercising criminal prosecuto-

rial authority granted in RCW 43.10.232 or otherwise granted by the legislature. [1981 c 335 § 1.]

*Reviser's note: The reference to RCW 43.10.234 appears to be erroneous. RCW 10.01.190 was apparently intended.

43.10.232 Concurrent authority to investigate crimes and initiate and conduct prosecutions—Payment of costs.

(1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

(a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;

(b) The governor of the state of Washington; or

(c) A majority of the committee charged with the oversight of the organized crime intelligence unit.

(2) Such request or concurrence shall be communicated in writing to the attorney general.

(3) Prior to any prosecution by the attorney general under this section, the attorney general and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution. [1986 c 257 § 16; 1981 c 335 § 2.]

Additional notes found at www.leg.wa.gov

43.10.234 Determination of prosecuting authority if defendant charged by attorney general and prosecuting attorney.

If both a prosecuting attorney and the attorney general file an information or indictment charging a defendant with substantially the same offense(s), the court shall, upon motion of either the prosecuting attorney or the attorney general:

(1) Determine whose prosecution of the case will best promote the interests of justice and enter an order designating that person as the prosecuting authority in the case; and

(2) Enter an order dismissing the information or indictment filed by the person who was not designated the prosecuting authority. [1981 c 335 § 3.]

43.10.240 Investigative and criminal prosecution activity—Annual report—Security protection.

The attorney general shall annually report to the chief of the Washington state patrol a summary of the attorney general's investigative and criminal prosecution activity conducted pursuant to this chapter. Except to the extent the summary describes information that is a matter of public record, the information made available to the chief of the Washington state patrol shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and rules and shall not be revealed or divulged publicly or privately. [2009 c 560 § 26; 1985 c 251 § 1.]

Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: See notes following RCW 18.06.080.

43.10.250 Appellate review of criminal case. Upon request of a prosecuting attorney, the attorney general may assume responsibility for the appellate review of a criminal case or assist the prosecuting attorney in the appellate review if the attorney general finds that the case involves fundamen-

tal issues affecting the public interest and the administration of criminal justice in this state. [1985 c 251 § 2.]

43.10.260 Criminal profiteering—Assistance to local officials.

The attorney general may: (1) Assist local law enforcement officials in the development of cases arising under the criminal profiteering laws with special emphasis on narcotics related cases; (2) assist local prosecutors in the litigation of criminal profiteering or drug asset forfeiture cases, or, at the request of a prosecutor's office, litigate such cases on its behalf; and (3) conduct seminars and training sessions on prosecution of criminal profiteering cases and drug asset forfeiture cases. [1991 c 345 § 2.]

Findings—1991 c 345: "The legislature finds that drug asset forfeiture and criminal profiteering laws allow law enforcement officials and the courts to strip drug dealers and other successful criminals of the wealth they have acquired from their crimes and the assets they have used to facilitate those crimes. These laws are rarely used by prosecutors, however, because of the difficulty in identifying profiteering and the assets that criminals may have as a result of their crimes. It is the intent of the legislature to provide assistance to local law enforcement officials and state agencies to seize the assets of criminals and the proceeds of their profiteering." [1991 c 345 § 1.]

43.10.270 Criminal profiteering—Asset recovery.

All assets recovered pursuant to RCW 43.10.260 shall be distributed in the following manner: (1) For drug asset forfeitures, pursuant to the provisions of RCW 69.50.505; and (2) for criminal profiteering cases, pursuant to the provisions of RCW 9A.82.100. [1991 c 345 § 3.]

Findings—1991 c 345: See note following RCW 43.10.260.

43.10.290 Office of military and veteran legal assistance—Created—Definitions—Limitations.

(1) Subject to the availability of amounts appropriated for this specific purpose, there is hereby created an office of military and veteran legal assistance within the office of the attorney general for the purpose of promoting and facilitating civil legal assistance programs, pro bono services, and self-help services for military service members, veterans, and their family members domiciled or stationed in Washington state.

(2) For the purposes of this section and RCW 43.10.292 and 43.10.294, the following definitions apply:

(a) The term "service member" means an active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(b) The term "veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007.

(c) The term "family member" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent minor children under twenty-one years of age of a living or deceased service member or veteran for whom the service member or veteran provided at least one-half of that person's support in the previous one hundred eighty days before seeking assistance of the programs and services authorized by this chapter.

(3) The attorney general may not directly provide legal assistance, advice, or representation in any context, unless otherwise authorized by law, and the attorney general may not provide legal assistance programs, pro bono services, or self-help services to a service member, veteran, or family member being criminally prosecuted. [2017 c 163 § 1.]

43.10.292 Office of military and veteran legal assistance—Duties. The office of military and veteran legal assistance shall:

(1) Recruit and train volunteer attorneys and identify service programs willing to perform pro bono services for service members, veterans, and their family members, and create and maintain a registry of the same;

(2) Assess and assign requests for pro bono services to volunteer attorneys and service programs registered with the office; and

(3) Establish an advisory committee that will include, among others, representatives from legal assistance offices on military installations, the office of civil legal aid, the Washington state bar association's legal assistance to military personnel section, the Washington state veterans bar association, relevant office of military service and support organizations, and organizations involved in coordinating, supporting, and delivering civil legal aid and pro bono legal services in Washington state. The committee shall provide advice and assistance regarding program design, operation, volunteer recruitment and support strategies, service delivery objectives and priorities, and funding. [2017 c 163 § 2.]

43.10.294 Office of military and veteran legal assistance—Grants, gifts, donations. The attorney general may apply for and receive grants, gifts, donations, bequests, or other contributions to help support and to be used exclusively for the operations of the office of military and veteran legal assistance. [2017 c 163 § 3.]

43.10.300 Hate crime advisory working group. (1) The office of the attorney general must, by September 1, 2019, coordinate and convene a multidisciplinary hate crime advisory working group for the purpose of developing strategies toward raising awareness of and appropriate responses to hate crime offenses and hate incidents. The working group must undertake its work with a view towards restorative justice.

(2) The group's membership must include:

(a) Four legislators, one appointed by each of the two largest caucuses of the senate and one appointed by each of the two largest caucuses of the house of representatives;

(b) Six members appointed by the governor from organizations representing groups protected under RCW 9A.36.080;

(c) One member appointed by the governor representing law enforcement;

(d) One member appointed by the governor representing prosecutors;

(e) One member appointed by the governor that is from a local organization with national expertise legislating against, tracking, and responding to hate crimes and hate incidents;

(f) One member appointed by the governor representing K-12 educators; and

(g) One member representing the attorney general's office.

(3) The work [working] group must develop recommended best practices for:

(a) Preventing hate crimes and hate incidents, especially those occurring in public K-12 schools and in the workplace, through public awareness and antibias campaigns;

(b) Increasing identification and reporting of hate crimes and hate incidents, including recommendations for standardization of data collection and reporting;

(c) Strengthening law enforcement, prosecutorial, and public K-12 school responses to hate crime offenses and hate incidents through enhanced training and other measures; and

(d) Supporting victims of hate crime offenses and hate incidents, and in particular, ways of strengthening law enforcement, health care, and educational collaboration with, and victim connection to, community advocacy and support organizations.

(4) The working group is encouraged to solicit participation and feedback from nonmember groups and individuals with relevant experience, as needed.

(5) The working group must hold at least four meetings. By July 1, 2020, the office of the attorney general must report the working group's recommendations to the governor and the legislature, in compliance with RCW 43.01.036. [2019 c 271 § 4.]

43.10.310 Immigration enforcement model policies—Adoption by schools, health facilities, courthouses.

(1) The attorney general, in consultation with appropriate stakeholders, must publish model policies within twelve months after May 21, 2019, for limiting immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, health facilities operated by the state or a political subdivision of the state, courthouses, and shelters, to ensure they remain safe and accessible to all Washington residents, regardless of immigration or citizenship status.

(2) All public schools, health facilities either operated by the state or a political subdivision of the state, and courthouses must:

(a) Adopt necessary changes to policies consistent with the model policy; or

(b) Notify the attorney general that the agency is not adopting the changes to its policies consistent with the model policy, state the reasons that the agency is not adopting the changes, and provide the attorney general with a copy of the agency's policies.

(3) All other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, are encouraged to adopt the model policy.

(4) Implementation of any policy under this section must be in accordance with state and federal law; policies, grants, waivers, or other requirements necessary to maintain funding; or other agreements related to the operation and functions of the organization, including databases within the organization.

(5) The definitions in RCW 43.17.420 apply to this section. [2019 c 440 § 4.]

Findings—Construction—Conflict with federal requirements—Effective date—2019 c 440: See notes following RCW 43.17.425.

43.10.315 Immigration enforcement model policies—Adoption by law enforcement agencies. To ensure state and law enforcement agencies are able to foster the community trust necessary to maintain public safety, within twelve months of May 21, 2019, the attorney general must, in

consultation with appropriate stakeholders, publish model policies, guidance, and training recommendations consistent with chapter 440, Laws of 2019 and state and local law, aimed at ensuring that state and local law enforcement duties are carried out in a manner that limits, to the fullest extent practicable and consistent with federal and state law, engagement with federal immigration authorities for the purpose of immigration enforcement. All state and local law enforcement agencies must either:

- (1) Adopt policies consistent with that guidance; or
- (2) Notify the attorney general that the agency is not adopting the guidance and model policies, state the reasons that the agency is not adopting the model policies and guidance, and provide the attorney general with a copy of the agency's policies to ensure compliance with chapter 440, Laws of 2019. [2019 c 440 § 7.]

Findings—Construction—Conflict with federal requirements—Effective date—2019 c 440: See notes following RCW 43.17.425.

**Chapter 43.12 RCW
COMMISSIONER OF PUBLIC LANDS**

Sections

- 43.12.010 Powers and duties—Generally.
- 43.12.021 Commissioner—Deputy—Appointment—Powers—Oath.
- 43.12.031 Auditors and cashiers—Other assistants.
- 43.12.041 Official bonds.
- 43.12.045 Rule-making authority.
- 43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- 43.12.065 Rules pertaining to public use of state lands—Enforcement—Penalty.
- 43.12.075 Duty of attorney general—Commissioner may represent state.

Abstracts of public lands maintained by: RCW 79.02.200.
Administrator of natural resources: RCW 43.30.105.
Board of natural resources secretary: RCW 43.30.225.
City or metropolitan park district parks or playgrounds, member of citizens committee to investigate and determine needs for tidelands and shorelands: RCW 79.125.710.
Duties of, to be prescribed by legislature: State Constitution Art. 3 § 23.
Election: State Constitution Art. 3 § 1.
Eminent domain
against state lands
filial judgment with commissioner of public lands: RCW 8.28.010.
service of process on: RCW 8.28.010.
by corporations, service on: RCW 8.20.020.
Escheats
conveyance of real property to claimant: RCW 11.08.270.
jurisdiction and supervision over real property: RCW 11.08.220.
land acquired by, management and control over: RCW 79.10.030.
Fees: RCW 79.02.240, 79.02.260.
Funds, daily deposit of funds in state treasury: RCW 43.30.325.
Harbor line relocation, platting of additional tidelands and shorelands created by: RCW 79.115.020.
Local and other improvements and assessments against state lands, tidelands and harbor area assessments, disapproval, effect: RCW 79.44.140.
Mistakes, recall of leases, contract or deeds to correct: RCW 79.02.040.
Oath of office: RCW 43.01.020.
Office may be abolished by legislature: State Constitution Art. 3 § 25.
Powers and duties transferred to natural resources department: RCW 43.30.411.
Recall of leases, contracts, or deeds to correct mistakes: RCW 79.02.040.
Reclamation projects of state: RCW 89.16.080.

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Reconsideration of official acts: RCW 79.02.040.
Records to be kept at state capitol: State Constitution Art. 3 § 24.
Recreation and conservation funding board, membership: RCW 79A.25.110.
Reports to legislature: RCW 79.10.010.
Salary
amount of: RCW 43.03.010.
regulated by legislature: State Constitution Art. 3 § 23.
School lands, data and information furnished to department of natural resources as to sale or lease of: RCW 79.11.020.
State capitol committee
member: RCW 43.34.010.
secretary of: RCW 43.34.015.
State lands: Title 79 RCW.
State parks, withdrawal of public lands from sale, exchange for highway abutting lands, duties: RCW 79A.05.110.
Succession to governorship: State Constitution Art. 3 § 10.
Survey and map agency, advisory board, appointment: RCW 58.24.020.
Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.
Underground storage of natural gas
lease of public lands for: RCW 80.40.060.
notice of application for sent to: RCW 80.40.040.
United States land offices, appearance before: RCW 79.02.100.
Washington State University real property, annual report as to: RCW 28B.30.310.
Withdrawal of state land from lease for game purposes, powers and duties concerning: RCW 77.12.360.

43.12.010 Powers and duties—Generally. The commissioner of public lands shall exercise such powers and perform such duties as are prescribed by law. [1965 c 8 § 43.12.010. Prior: 1921 c 7 § 119; RRS § 10877.]

43.12.021 Commissioner—Deputy—Appointment—Powers—Oath. The commissioner shall have the power to appoint an assistant, who shall be deputy commissioner of public lands with power to perform any act or duty relating to the office of the commissioner, and, in case of vacancy by death or resignation of the commissioner, shall perform the duties of the office until the vacancy is filled, and shall act as chief clerk in the office of the commissioner, and, before performing any duties, shall take, subscribe, and file in the office of the secretary of state the oath of office required by law of state officers. [2003 c 334 § 305; 1927 c 255 § 14; RRS § 7797-14. Prior: 1903 c 33 § 1; RRS § 7815. Formerly RCW 79.01.056, 43.12.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.12.031 Auditors and cashiers—Other assistants. The commissioner shall have the power to appoint an auditor and cashier and such number of other assistants, as the commissioner deems necessary for the performance of the duties of the office. [2003 c 334 § 306; 1927 c 255 § 15; RRS § 7797-15. Formerly RCW 79.01.060, 43.12.030.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.12.041 Official bonds. The commissioner and those appointed by the commissioner shall enter into good and sufficient surety company bonds as required by law, in the following sums: Commissioner, fifty thousand dollars; and other appointees in such sum as may be fixed in the manner provided by law. [2003 c 334 § 307; 1927 c 255 § 16; RRS §

7797-16. Prior: 1907 c 119 §§ 1, 2; RRS §§ 7816, 7817. Formerly RCW 79.01.064, 43.12.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.12.045 Rule-making authority. For rules adopted after July 23, 1995, the commissioner of public lands may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 101.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.12.055 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the commissioner of public lands or the supervisor of natural resources shall be in accordance with RCW 43.05.100 and 43.05.110. [2003 c 334 § 103; 1995 c 403 § 622.]

Intent—2003 c 334: See note following RCW 79.02.010.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.12.065 Rules pertaining to public use of state lands—Enforcement—Penalty. (1) For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.05 RCW, issue, promulgate, adopt, and enforce rules pertaining to use by the public of state-owned lands and property which are administered by the department.

(2)(a) Except as otherwise provided in this subsection, a violation of any rule adopted under this section is a misdemeanor.

(b) Except as provided in (c) of this subsection, the department may specify by rule, when not inconsistent with applicable statutes, that violation of such a rule is an infraction under chapter 7.84 RCW. However, any violation of a rule relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction.

(c) Violation of such a rule equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

(3) The commissioner of public lands and those employees as the commissioner may designate shall be vested with police powers when enforcing:

(a) The rules of the department adopted under this section;

(b) The civil infractions created under RCW 79A.80.080; or

(c) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property.

(4) The commissioner of public lands may, under the provisions of RCW 7.84.140, enter into an agreement allowing employees of the state parks and recreation commission and the department of fish and wildlife to enforce certain civil infractions created under this title. [2011 c 320 § 16; 2003 c 53 § 229; 1987 c 380 § 14; 1979 ex.s. c 136 § 38; 1969 ex.s. c 160 § 1. Formerly RCW 43.30.310.]

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

43.12.075 Duty of attorney general—Commissioner may represent state. It shall be the duty of the attorney general, to institute, or defend, any action or proceeding to which the state, or the commissioner or the board, is or may be a party, or in which the interests of the state are involved, in any court of this state, or any other state, or of the United States, or in any department of the United States, or before any board or tribunal, when requested so to do by the commissioner, or the board, or upon the attorney general's own initiative.

The commissioner is authorized to represent the state in any such action or proceeding relating to any public lands of the state. [2003 c 334 § 431; 1959 c 257 § 40; 1927 c 255 § 194; RRS § 7797-194. Prior: 1909 c 223 § 7; 1897 c 89 § 65; 1895 c 178 § 100. Formerly RCW 79.01.736, 79.08.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

Chapter 43.15 RCW

OFFICE OF LIEUTENANT GOVERNOR

Sections

43.15.005	Findings.
43.15.010	Duties.
43.15.020	President of the senate—Committee and board appointments and assignments.
43.15.050	Legislative international trade account.
43.15.060	Legislative committee on economic development and international relations—Purpose—Created—Membership.
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43.15.070	Legislative committee on economic development and international relations—Powers—Study and review of economic issues.
43.15.075	Legislative committee on economic development and international relations—Staff support.
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43.15.085	Legislative committee on economic development and international relations—Expenses.
43.15.090	Legislative committee on economic development and international relations—Cooperation with committees, agencies, and councils.
43.15.095	Legislative youth advisory council.
43.15.901	Effective date—1985 c 467.

43.15.005 Findings. The legislature finds that as the duties and responsibilities of the office of lieutenant governor have continued to incrementally increase, they have been distributed among various noncorresponding chapters in statute. The legislature further finds that by consolidating the duties and responsibilities of the office of lieutenant governor under one chapter, it keeps our statutes consistent among the different statewide elected offices and greater facilitates the understanding of the role of the office of lieutenant governor and its many statutorily defined duties and responsibilities. [2006 c 317 § 1.]

43.15.010 Duties. The lieutenant governor has the following duties:

(1) The lieutenant governor serves as president of the senate.

(2) In addition to the events prescribed under the state Constitution, the lieutenant governor performs the duties of

the governor when the governor is out of the state pursuant to RCW 43.06.040 and 43.06.050. When the lieutenant governor is called to perform the duties of the governor, he or she is compensated according to RCW 43.03.020.

(3) When delegated to do so under RCW 41.72.030, the lieutenant governor shall award the law enforcement medal of honor during national law enforcement recognition week. [2006 c 317 § 3.]

43.15.020 President of the senate—Committee and board appointments and assignments. The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

(a) Capitol furnishings preservation committee, RCW 27.48.040;

(b) Washington higher education facilities authority, RCW 28B.07.030;

(c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;

(d) State finance committee, RCW 43.33.010;

(e) State capitol committee, RCW 43.34.010;

(f) Washington health care facilities authority, RCW 70.37.030;

(g) State medal of merit nominating committee, RCW 1.40.020;

(h) Medal of valor committee, RCW 1.60.020; and

(i) Washington state leadership board, RCW 43.388.010.

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

(a) Civil legal aid oversight committee, RCW 2.53.010;

(b) Office of public defense advisory committee, RCW 2.70.030;

(c) Washington state gambling commission, RCW 9.46.040;

(d) Sentencing guidelines commission, RCW 9.94A.860;

(e) State building code council, RCW 19.27.070;

(f) Financial education public-private partnership, RCW 28A.300.450;

(g) Joint administrative rules review committee, RCW 34.05.610;

(h) Capital projects advisory review board, RCW 39.10.220;

(i) Select committee on pension policy, RCW 41.04.276;

(j) Legislative ethics board, RCW 42.52.310;

(k) Washington citizens' commission on salaries, RCW 43.03.305;

(l) Legislative oral history committee, RCW 44.04.325;

(m) State council on aging, RCW 43.20A.685;

(n) State investment board, RCW 43.33A.020;

(o) Capitol campus design advisory committee, RCW 43.34.080;

(p) Washington state arts commission, RCW 43.46.015;

(q) PNWER-Net working subgroup under chapter 43.147 RCW;

(r) Community economic revitalization board, RCW 43.160.030;

(s) Washington economic development finance authority, RCW 43.163.020;

(t) Joint legislative audit and review committee, RCW 44.28.010;

(u) Joint committee on energy supply and energy conservation, RCW 44.39.015;

(v) Legislative evaluation and accountability program committee, RCW 44.48.010;

(w) Washington horse racing commission, RCW 67.16.014;

(x) Correctional industries board of directors, RCW 72.09.080;

(y) Joint committee on veterans' and military affairs, RCW 73.04.150;

(z) Joint legislative committee on water supply during drought, RCW 90.86.020; and

(aa) Statute law committee, RCW 1.08.001. [2022 c 96 § 5; 2020 c 114 § 5; 2017 3rd sp.s. c 6 § 814; 2015 c 225 § 61; 2011 c 158 § 12. Prior: 2010 1st sp.s. c 7 § 136; 2010 1st sp.s. c 7 § 135; 2010 c 271 § 704; 2009 c 560 § 27; 2008 c 152 § 9; 2006 c 317 § 4.]

Findings—Effective date—2022 c 96: See notes following RCW 43.388.010.

Effective date—2020 c 114: See note following RCW 28A.175.075.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: See notes following RCW 18.06.080.

Findings—Intent—2008 c 152: See note following RCW 13.34.136.

Additional notes found at www.leg.wa.gov

43.15.050 Legislative international trade account.

The legislative international trade account is created in the custody of the state treasurer. All moneys received by the president of the senate and the secretary of state from gifts, grants, and endowments for international trade hosting, international relations, and international missions activities must be deposited in the account. Only private, nonpublic gifts, grants, and endowments may be deposited in the account. A person, as defined in RCW 42.52.010, may not donate, gift, grant, or endow more than five thousand dollars per calendar year to the legislative international trade account. Expenditures from the account may be used only for the purposes of international trade hosting, international relations, and international trade mission activities, excluding travel and lodging, in which the president and members of the senate, members of the house of representatives, and the secretary of state participate in an official capacity. An appropriation is not required for expenditures. All requests by individual legislators for use of funds from this account must be first approved by the secretary of the senate for members of the senate or the chief clerk of the house of representatives for members of the house of representatives. All expenditures from the account shall be authorized by the final signed approval of the chief clerk of the house of representatives, the secretary of the sen-

ate, and the president of the senate. [2003 c 265 § 1. Formerly RCW 44.04.270.]

43.15.060 Legislative committee on economic development and international relations—Purpose—Created—Membership. (1) Economic development and in particular international trade, tourism, and investment have become increasingly important to Washington, affecting the state's employment, revenues, and general economic well-being. Additionally, economic trends are rapidly changing and the international marketplace has become increasingly competitive as states and countries seek to improve and safeguard their own economic well-being. The purpose of the legislative committee on economic development and international relations is to provide responsive and consistent involvement by the legislature in economic development to maintain a healthy state economy and to provide employment opportunities to Washington residents.

(2) There is created a legislative committee on economic development and international relations which shall consist of six senators and six representatives from the legislature and the lieutenant governor who shall serve as chairperson. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than three members from each house shall be from the same political party. Vacancies occurring shall be filled by the appointing authority. [2020 c 114 § 20; 2003 c 347 § 1; 1985 c 467 § 17. Formerly RCW 44.52.010.]

Effective date—2020 c 114: See note following RCW 28A.175.075.

43.15.065 Legislative committee on economic development and international relations—Subcommittees—Rules of procedure. The committee shall by majority vote establish subcommittees, and prescribe rules of procedure for itself and its subcommittees which are consistent with this chapter. [2020 c 114 § 21; 1985 c 467 § 18. Formerly RCW 44.52.020.]

Effective date—2020 c 114: See note following RCW 28A.175.075.

43.15.070 Legislative committee on economic development and international relations—Powers—Study and review of economic issues. The committee or its subcommittees are authorized to study and review economic development issues with special emphasis on international trade, tourism, investment, and industrial development, and to assist the legislature in developing a comprehensive and consistent economic development policy. The issues under review by the committee shall include, but not be limited to:

(1) Evaluating existing state policies, laws, and programs which promote or affect economic development with special emphasis on those concerning international trade, tourism, and investment and determine their cost-effectiveness and level of cooperation with other public and private agencies;

(2) Monitoring economic trends, and developing for review by the legislature such state responses as may be deemed effective and appropriate;

(3) Monitoring economic development policies and programs of other states and nations and evaluating their effectiveness;

(4) Determining the economic impact of international trade, tourism, and investment upon the state's economy;

(5) Assessing the need for and effect of federal, regional, and state cooperation in economic development policies and programs;

(6) Evaluating opportunities to collaborate with public and private agencies in achieving Washington state's international relations objectives;

(7) Designating official legislative trade delegations and nominating legislators for inclusion in official trade delegations organized by the office of international relations and protocol;

(8) Proposing potential sister-state relationships to be submitted to the governor for approval; and

(9) Developing and evaluating legislative proposals concerning the issues specified in this section. [2022 c 6 § 1; 2020 c 114 § 22; 1985 c 467 § 19. Formerly RCW 44.52.030.]

Effective date—2020 c 114: See note following RCW 28A.175.075.

43.15.075 Legislative committee on economic development and international relations—Staff support. The committee shall receive the necessary staff support from both the senate and house staff resources. [1985 c 467 § 20. Formerly RCW 44.52.040.]

43.15.080 Legislative committee on economic development and international relations—Travel expenses. The members of the committee shall serve without additional compensation, but shall be reimbursed for their travel expenses, in accordance with RCW 44.04.120, incurred while attending sessions of the committee or meetings of any subcommittee of the committee, while engaged on other committee business authorized by the committee, and while going to and coming from committee sessions or committee meetings. [1985 c 467 § 21. Formerly RCW 44.52.050.]

43.15.085 Legislative committee on economic development and international relations—Expenses. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the auditor and signed by the chairperson or vice chairperson of the committee and attested by the secretary of the committee, and the authority of the chairperson and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee or both. [1985 c 467 § 22. Formerly RCW 44.52.060.]

43.15.090 Legislative committee on economic development and international relations—Cooperation with committees, agencies, and councils. The committee shall cooperate, act, and function with legislative committees, executive agencies, and with the councils or committees of other states similar to this committee and with other interstate research organizations. [1985 c 467 § 23. Formerly RCW 44.52.070.]

43.15.095 Legislative youth advisory council. (1) The legislative youth advisory council is established to examine issues of importance to youth, including but not limited to education, employment, strategies to increase youth participation in state and municipal government, safe environments for youth, substance abuse, emotional and physical health, foster care, poverty, homelessness, and youth access to services on a statewide and municipal basis.

(2) The council consists of at least twenty-two members as provided in this subsection who, at the time of appointment, are aged fourteen to eighteen. The council shall select a chair from among its members.

(3) Members shall serve two-year terms and, if eligible, may be reappointed for subsequent two-year terms.

(4)(a) Students may apply annually to be considered for participation in the program by completing an online application form and submitting the application to the legislative youth advisory council. The council may develop selection criteria and an application review process. The council shall recommend candidates whose names will be submitted to the office of the lieutenant governor for final selection. The office of the lieutenant governor shall notify all applicants of the final selections.

(b) The office of the lieutenant governor shall make the application available on the lieutenant governor's website.

(5) Subject to the supervision of the office of the lieutenant governor, the council shall have the following duties:

(a) Advising the legislature on proposed and pending legislation, including state budget expenditures and policy matters relating to youth;

(b) Advising the standing committees of the legislature and study commissions, committees, and task forces regarding issues relating to youth;

(c) Conducting periodic seminars for its members regarding leadership, government, and the legislature;

(d) Accepting and soliciting for grants and donations from public and private sources to support the activities of the council; and

(e) Reporting annually by December 1st to the legislature on its activities, including proposed legislation that implements recommendations of the council.

(6) In carrying out its duties under this section, the council must meet at least three times per year. The council is encouraged to use technology, such as remote videoconferencing technology, to facilitate members' participation in meetings. The council is encouraged to invite local state legislators to participate in the meetings. The council is encouraged to poll other students in order to get a broad perspective on various policy issues. The council is encouraged to use technology to conduct polling.

(7) Members may be reimbursed as provided in RCW 43.03.050 and 43.03.060.

(8) The office of the lieutenant governor shall provide administration, supervision, and facilitation support to the council. In facilitating the program, the office of the lieutenant governor may collaborate with the Washington state leadership board established in RCW 43.388.010. The senate and house of representatives may provide policy and fiscal briefings and assistance with drafting proposed legislation. The senate and the house of representatives shall each develop internal policies relating to staff assistance provided

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to the council. Such policies may include applicable internal personnel and practices guidelines, resource use and expense reimbursement guidelines, and applicable ethics mandates. Provision of funds, resources, and staff, as well as the assignment and direction of staff, remains at all times within the sole discretion of the chamber making the provision.

(9) The office of the lieutenant governor, the legislature, any agency of the legislature, and any official or employee of such office or agency are immune from liability for any injury that is incurred by or caused by a member of the legislative youth advisory council and that occurs while the member of the council is performing duties of the council or is otherwise engaged in activities or receiving services for which reimbursement is allowed under subsection (7) of this section. The immunity provided by this subsection does not apply to an injury intentionally caused by the act or omission of an employee or official of the office of the lieutenant governor, the legislature, or any agency of the legislature. [2022 c 96 § 6; 2020 c 114 § 23; 2009 c 410 § 1; 2007 c 291 § 2; 2005 c 355 § 1. Formerly RCW 28A.300.801.]

Findings—Effective date—2022 c 96: See notes following RCW 43.388.010.

Effective date—2020 c 114: See note following RCW 28A.175.075.

Finding—2007 c 291: "The legislature finds that the legislative youth advisory council provides a unique opportunity for middle and high school students to be actively involved in government. Councilmembers not only learn about, but exercise, the core values and democratic principles of our state and nation, along with the rights and responsibilities of citizenship and democratic civic involvement. As such, they are engaged in authentic practice of the essential academic learning requirements in civics. In the short time since its creation, the legislative youth advisory council has studied, debated, and begun to formulate positions and recommendations on such important topics as education reform, school finance, public school learning environments, health and fitness education, and standardized testing. The legislature continues to stress the importance of civics education and support the type of civic involvement by students exemplified by the legislative youth advisory council." [2007 c 291 § 1.]

Additional notes found at www.leg.wa.gov

43.15.901 Effective date—1985 c 467. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985. [1985 c 467 § 26. Formerly RCW 44.52.901.]

Chapter 43.17 RCW

ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

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- 43.17.380 Quality management, accountability, and performance system—Definitions.
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- 43.17.390 Quality management, accountability, and performance system—Independent assessment.
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- 43.17.410 Sensitive personal information of vulnerable individuals or in-home caregivers for vulnerable populations—Release of information prohibited.
- 43.17.420 Immigration and citizenship status—Definitions.
- 43.17.425 Immigration and citizenship status—State agency restrictions.

Collection agency use by state: RCW 19.16.500.

Debts owed to state, interest rate: RCW 43.17.240.

Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action: RCW 43.01.210.

43.17.010 Departments created. There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of enterprise services, (9) the department of commerce, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, (17) the department of children, youth, and families, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [2017 3rd sp.s. c 6 § 109; 2011 1st sp.s. c 43 § 107; 2009 c 565 § 25; 2007 c 341 § 46; 2006 c 265 § 111; 2005 c 333 § 10. Prior: 1993 sp.s. c 2 § 16; 1993 c 472 § 17; 1993 c 280 § 18; 1989 1st ex.s. c 9 § 810; 1987 c 506 § 2; 1985 c 466 § 47; 1984 c 125 § 12; 1981 c 136 § 61; 1979 c 10 § 1; prior: 1977 ex.s. c 334 § 5; 1977 ex.s. c 151 § 20; 1977 c 7 § 1; prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Department of
agriculture: Chapter 43.23 RCW.
archaeology and historic preservation: Chapter 43.334 RCW.
children, youth, and families: Chapter 43.216 RCW.
commerce: Chapter 43.330 RCW.
corrections: Chapter 72.09 RCW.
ecology: Chapter 43.21A RCW.
employment security: Chapter 50.08 RCW.
enterprise services: Chapter 43.19 RCW.
financial institutions: Chapter 43.320 RCW.
fish and wildlife: Chapters 43.300 and 77.04 RCW.
health: Chapter 43.70 RCW.
labor and industries: Chapter 43.22 RCW.
licensing: Chapters 43.24 and 46.01 RCW.
natural resources: Chapter 43.30 RCW.
personnel: Chapter 41.06 RCW.
retirement systems: Chapter 41.50 RCW.
revenue: Chapter 82.01 RCW.
services for the blind: Chapter 74.18 RCW.
social and health services: Chapter 43.20A RCW.
transportation: Chapter 47.01 RCW.
veterans affairs: Chapter 43.60A RCW.

Additional notes found at www.leg.wa.gov

43.17.020 Chief executive officers—Appointment.

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of enterprise services, (9) the director of commerce, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the secretary of children, youth, and families, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055. [2017 3rd sp.s. c 6 § 110; 2011 1st sp.s. c 43 § 108; 2009 c 565 § 26; 2007 c 341 § 47; 2006 c 265 § 112. Prior: 2005 c 333 § 11; 2005 c 319 § 2; 1995 1st sp.s. c 2 § 2 (Referendum Bill No. 45, approved November 7, 1995); prior: 1993 sp.s. c 2 § 17; 1993 c 472 § 18; 1993 c 280 § 19; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2; prior: 1977 ex.s. c 334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS

§ 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—2005 c 319: "The legislature finds that it is in the interest of the state to restructure the roles and responsibilities of the state's transportation agencies in order to improve efficiency and accountability. The legislature also finds that continued citizen oversight of the state's transportation system remains an important priority. To achieve these purposes, the legislature intends to provide direct accountability of the department of transportation to the governor, in his or her role as chief executive officer of state government, by making the secretary of transportation a cabinet-level official. Additionally, it is essential to clearly delineate between the separate and distinct roles and responsibilities of the executive and legislative branches of government. The role of executive is to oversee the implementation of transportation programs, while the legislature reserves to itself the role of policymaking. Finally, consolidating public outreach and auditing of the state's transportation agencies under a single citizen-governed entity, the transportation commission, will provide the public with information about the performance of the transportation system and an avenue for direct participation in its oversight." [2005 c 319 § 1.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

43.17.030 Powers and duties—Oath. The directors of the several departments shall exercise such powers and perform such executive and administrative duties as are provided by law.

Each appointive officer before entering upon the duties of his or her office shall take and subscribe the oath of office prescribed by law for elective state officers, and file the same in the office of the secretary of state. [2009 c 549 § 5058; 1965 c 8 § 43.17.030. Prior: 1921 c 7 § 18; RRS § 10776.]

Oaths of elective state officers: RCW 43.01.020.

43.17.040 Chief assistant director—Powers. The director of each department may, from time to time, designate and deputize one of the assistant directors of his or her department to act as the chief assistant director, who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [2009 c 549 § 5059; 1965 c 8 § 43.17.040. Prior: 1921 c 7 § 118; RRS § 10876.]

43.17.050 Office at capital—Branch offices. Each department shall maintain its principal office at the state capital. The director of each department may, with the approval of the governor, establish and maintain branch offices at other places than the state capital for the conduct of one or more of the functions of his or her department.

The governor, in his or her discretion, may require all administrative departments of the state and the appointive officers thereof, other than those created by this chapter, to maintain their principal offices at the state capital in rooms to be furnished by the director of enterprise services. [2015 c 225 § 62; 2009 c 549 § 5060; 1965 c 8 § 43.17.050. Prior: (i)

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1921 c 7 § 20; RRS § 10778. (ii) 1921 c 7 § 134; RRS § 10892.]

Departments to share occupancy—Capital projects surcharge: RCW 43.01.090.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

43.17.060 Departmental rules and regulations. The director of each department may prescribe rules and regulations, not inconsistent with law, for the government of his or her department, the conduct of its subordinate officers and employees, the disposition and performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto. [2009 c 549 § 5061; 1965 c 8 § 43.17.060. Prior: 1921 c 7 § 19; RRS § 10777.]

43.17.070 Administrative committees. There shall be administrative committees of the state government, which shall be known as: (1) The state finance committee and (2) the state capitol committee. [1982 c 40 § 8; 1965 c 8 § 43.17.070. Prior: 1929 c 115 § 3; 1921 c 7 § 4; RRS § 10762.]

State capitol committee: Chapter 43.34 RCW.

State finance committee: Chapter 43.33 RCW.

Additional notes found at www.leg.wa.gov

43.17.095 Option to submit document, form, or payment electronically—Requirements. (1) In any instance where a state agency requires that a business submit a document, form, or payment of a fee in paper format, the state agency must provide the business an option to submit such requirement electronically.

(2) A business may authorize a second party to meet the requirements imposed by a state agency under subsection (1) of this section on its behalf.

(3) The director of a state agency or the director's designee may exempt a document, form, or payment of a fee from the requirements of this section if:

(a)(i) There is a legal requirement for such materials to be submitted in paper format; or

(ii) It is not technically or fiscally feasible or practical, or in the best interest of businesses for such materials to be submitted electronically; and

(b) Within existing resources, the director or the director's designee establishes and maintains a process to notify the public regarding such exemptions.

(4) Agencies must add the capability to submit existing documents, forms, and fees electronically as part of their normal operations. New documents, forms, and fees required of a business must be capable of electronic submission within a reasonable time following either their creation or the implementation of the new requirement.

(5) Agencies must document how they plan to transition from paper to electronic forms. [2012 c 127 § 1.]

43.17.100 Surety bonds for appointive state officers and employees. Every appointive state officer and employee of the state shall give a surety bond, payable to the state in such sum as shall be deemed necessary by the director of the department of enterprise services, conditioned for the honesty of the officer or employee and for the accounting of all

property of the state that shall come into his or her possession by virtue of his or her office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state.

The director of enterprise services may purchase one or more blanket surety bonds for the coverage required in this section.

Any bond required by this section shall not be considered an official bond and shall not be subject to chapter 42.08 RCW. [2015 c 225 § 63; 2009 c 549 § 5062; 1977 ex.s. c 270 § 7; 1975 c 40 § 6; 1965 c 8 § 43.17.100. Prior: 1921 c 7 § 16; RRS § 10774.]

Official bonds: Chapter 42.08 RCW.

Powers and duties of director of enterprise services as to official bonds: RCW 43.19.784.

43.17.110 Data, information, interdepartmental assistance. Where power is vested in a department or officer to inspect, examine, secure data or information from, or procure assistance from, another department or officer, such other department or officer shall submit to such inspection or examination, and furnish the data, information, or assistance required. [1965 c 8 § 43.17.110. Prior: 1921 c 7 § 128; RRS § 10886.]

43.17.120 Designation of agency to carry out federal social security disability program. Such state agency as the governor may designate is hereby authorized to enter into an agreement on behalf of the state with the Secretary of Health, Education and Welfare to carry out the provisions of the federal social security act, as amended, relating to the making of determinations of disability under title II of such act. [1965 c 8 § 43.17.120. Prior: 1955 c 200 § 1. Formerly RCW 74.44.010.]

Federal social security for public employees: Chapters 41.33, 41.41, 41.47, and 41.48 RCW.

43.17.130 Designation of agency to carry out federal social security disability program—Appointment of personnel. The state agency entering into such agreement shall appoint such professional personnel and other assistants and employees as may be reasonably necessary to carry out the provisions of RCW 43.17.120 and 43.17.130. [1965 c 8 § 43.17.130. Prior: 1955 c 200 § 2. Formerly RCW 74.44.020.]

43.17.150 Receipt of property or money from United States attorney general—Use, expenditure—Deposit. (1) Each state agency is authorized to receive property or money made available by the attorney general of the United States under section 881(e) of Title 21 of the United States Code and, except as required to the contrary under subsection (2) of this section, to use the property or spend the money for such purposes as are permitted under both federal law and the state law specifying the powers and duties of the agency.

(2) Unless precluded by federal law, all funds received by a state agency under section 881(e) of Title 21 of the United States Code shall be promptly deposited into the state general fund. [2009 c 479 § 27; 1986 c 246 § 1.]

Additional notes found at www.leg.wa.gov

43.17.200 Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions. (1) All state agencies including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated for the original construction of any public building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art.

(2) For projects funded in the capital budget, a state agency, working with the Washington state arts commission, may expend up to ten percent of the projected art allocation for a project during the design phase in order to select an artist and design art to be integrated in the building design. The one-half of one percent to be expended by the Washington state arts commission must be adjusted downward by the amount expended by a state agency during the design phase of the capital project.

(3) The works of art may be placed on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities.

(4) In addition to the cost of the works of art, the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration of the visual arts program, including conservation of the state art collection, by the Washington state arts commission and all costs for installation of the works of art. For the purpose of this section building shall not include highway construction sheds, warehouses, or other buildings of a temporary nature. [2019 c 240 § 2; 2018 c 298 § 7016; 2005 c 36 § 4; 1983 c 204 § 4; 1974 ex.s. c 176 § 2.]

Effective date—2018 c 298: See note following RCW 79.17.210.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Purchase of works of art

interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

procedure: RCW 43.19.455.

State art collection: RCW 43.46.095.

Additional notes found at www.leg.wa.gov

43.17.205 Purchase of works of art—Interagency reimbursement for expenditure by visual arts program. The funds allocated under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission when the particular law providing for the appropriation becomes effective. For appropriations which are dependent upon the sale of bonds, the amount or proportionate amount of the moneys under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission thirty days after the sale of a bond or bonds. [1990 c 33 § 574; 1983 c 204 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.17.210 Purchase of works of art—Procedure. The Washington state arts commission shall determine the amount to be made available for the purchase of art in consultation with the agency, except where another person or agency is specified under RCW 43.19.455, 28A.335.210, or 28B.10.025, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the directors of the state agencies. [2005 c 36 § 5; 1990 c 33 § 575; 1983 c 204 § 5.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.17.230 Emergency information telephone services—Accessibility from all phones required—Charges.

(1) The legislature finds that when the state provides emergency information by telephone to citizens that is of a critical nature, such as road or weather hazards, the information should be accessible from all residential, commercial, and coin-operated telephones. Information such as road and weather conditions should be available to all persons traveling within the state whether they own a telephone in this state or not.

(2) If an agency or department of the state makes emergency information services available by telephone, the agency or department shall ensure that the telephone line is accessible from all coin-operated telephones in this state by both the use of coins and the use of a telephone credit card.

(3) A state agency that provides an emergency information service by telephone may establish charges to recover the cost of those services. However, an agency charging for the service shall not price it at a profit to create excess revenue for the agency. The agency shall do a total cost-benefit analysis of the available methods of providing the service and shall adopt the method that provides the service at the lowest cost to the user and the agency.

(4) "Emergency information services," as used in this section, includes information on road and weather conditions. [1986 c 45 § 1.]

43.17.240 Debts owed to the state—Interest rate.

Interest at the rate of one percent per month, or fraction thereof, shall accrue on debts owed to the state, starting on the date the debts become past due. This section does not apply to: (1) Any instance where such interest rate would conflict with the provisions of a contract or with the provisions of any other law; or (2) debts to be paid by other governmental units. The office of financial management may adopt rules specifying circumstances under which state agencies may waive interest, such as when assessment or collection of interest would not be cost-effective. This section does not affect any authority of the state to charge or collect interest under any other law on a debt owed to the state by a governmental unit. This section applies only to debts which become due on or after July 28, 1991. [1991 c 85 § 2.]

Collection agency use by state: RCW 19.16.500.

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43.17.250 Countywide planning policy. (1) Whenever a state agency is considering awarding grants or loans for a county, city, or town planning under RCW 36.70A.040 to finance public facilities, it shall consider whether the county, city, or town requesting the grant or loan has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(2) If a comprehensive plan, development regulation, or amendment thereto adopted by a county, city, or town has been appealed to the growth management hearings board under RCW 36.70A.280, the county, city, or town may not be determined to be ineligible or otherwise penalized in the acceptance of applications or the awarding of state agency grants or loans during the pendency of the appeal before the board or subsequent judicial appeals. This subsection (2) applies only to counties, cities, and towns that have: (a) Delayed the initial effective date of the action subject to the petition before the board until after the board issues a final determination; or (b) within thirty days of receiving notice of a petition for review by the board, delayed or suspended the effective date of the action subject to the petition before the board until after the board issues a final determination.

(3) When reviewing competing requests from counties, cities, or towns planning under RCW 36.70A.040, a state agency considering awarding grants or loans for public facilities shall accord additional preference to those counties, cities, or towns that have adopted a comprehensive plan and development regulations as required by RCW 36.70A.040. For the purposes of the preference accorded in this section, a county, city, or town planning under RCW 36.70A.040 is deemed to have satisfied the requirements for adopting a comprehensive plan and development regulations specified in RCW 36.70A.040 if the county, city, or town:

(a) Adopts or has adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040;

(b) Adopts or has adopted a comprehensive plan and development regulations before the state agency makes a decision regarding award recipients of the grants or loans if the county, city, or town failed to adopt a comprehensive plan and/or development regulations within the time periods specified in RCW 36.70A.040; or

(c) Demonstrates substantial progress toward adopting a comprehensive plan or development regulations within the time periods specified in RCW 36.70A.040. A county, city, or town that is more than six months out of compliance with the time periods specified in RCW 36.70A.040 shall not be deemed to demonstrate substantial progress for purposes of this section.

(4) The preference specified in subsection (3) of this section applies only to competing requests for grants or loans from counties, cities, or towns planning under RCW 36.70A.040. A request from a county, city, or town planning under RCW 36.70A.040 shall be accorded no additional preference based on subsection (3) of this section over a request from a county, city, or town not planning under RCW 36.70A.040.

(5) Whenever a state agency is considering awarding grants or loans for public facilities to a special district requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall con-

sider whether the county, city, or town in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040 and shall apply the standards in subsection (2) of this section and the preference specified in subsection (3) of this section and restricted in subsection (4) of this section. [2013 c 275 § 2; 1999 c 164 § 601; 1991 sp.s. c 32 § 25.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Additional notes found at www.leg.wa.gov

43.17.310 Businesses—Rules coordinator to provide list of rules. The rules coordinator under RCW 34.05.310 shall be knowledgeable regarding the agency's rules that affect businesses. The rules coordinator shall provide a list of agency rules applicable at the time of the request to a specific class or line of business, which are limited to that specific class or line as opposed to generic rules applicable to most businesses, to the *business assistance center when so requested by the *business assistance center for the specific class or line of business. [1992 c 197 § 5.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.17.320 Interagency disputes—Alternative dispute resolution—Definitions. For purposes of RCW 43.17.320 through 43.17.340, "state agency" means:

(1) Any agency for which the executive officer is listed in RCW 42.17A.705(1); and

(2) The office of the secretary of state; the office of the state treasurer; the office of the state auditor; the department of natural resources; the office of the insurance commissioner; and the office of the superintendent of public instruction. [2011 c 60 § 35; 1993 c 279 § 2.]

Intent—1993 c 279: "It is the intent of the legislature to reduce the number of time-consuming and costly lawsuits between state agencies by establishing alternative dispute resolution processes available to any agency." [1993 c 279 § 1.]

Additional notes found at www.leg.wa.gov

43.17.330 Interagency disputes—Alternative dispute resolution—Methods. Whenever a dispute arises between state agencies, agencies shall employ every effort to resolve the dispute themselves without resorting to litigation. These efforts shall involve alternative dispute resolution methods. If a dispute cannot be resolved by the agencies involved, any one of the disputing agencies may request the governor to assist in the resolution of the dispute. The governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute. Such methods may include, but are not limited to, the appointment by the governor of a mediator, acceptable to the disputing agencies, to assist in the resolution of the dispute. The governor may also request assistance from the attorney general to advise the mediator and the disputing agencies. [1993 c 279 § 3.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.340 Interagency disputes—Alternative dispute resolution—Exception. RCW 43.17.320 and 43.17.330 shall not apply to any state agency that is a party to a lawsuit, which: (1) Impleads another state agency into the lawsuit when necessary for the administration of justice; or (2) files a notice of appeal, petitions for review, or makes other filings subject to time limits, in order to preserve legal rights and remedies. [1993 c 279 § 4.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.350 Health-related state agencies—Professional health services—Fee schedules. For the purpose of accurately describing professional health services purchased by the state, health-related state agencies may develop fee schedules based on billing codes and service descriptions published by the American medical association or the United States federal health care financing administration, or develop agency unique codes and service descriptions. [1995 1st sp.s. c 6 § 20.]

Additional notes found at www.leg.wa.gov

43.17.360 Lease of real property—Term of a lease—Use of proceeds—Retroactive application. (1) The department of social and health services and other state agencies may lease real property and improvements thereon to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults.

(2) A lease governed by subsection (1) of this section shall not charge more than one dollar per year for the land value and facilities value, during the initial term of the lease, but the lease may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state.

The initial term of a lease governed by subsection (1) of this section shall not exceed twenty years, except as provided in subsection (4) of this section. A lease renewed under subsection (1) of this section after the initial term shall charge the fair rental value for the land and improvements other than those improvements paid for by a contracting consortium. The renewed lease may also include provisions for payment of any reasonable operation and maintenance expenses incurred by the state. For the purposes of this subsection, fair rental value shall be determined by the commissioner of public lands in consultation with the department and shall not include the value of any improvements paid for by a contracting consortium.

(3) The net proceeds generated from any lease entered or renewed under subsection (1) of this section involving land and facilities on the grounds of eastern state hospital shall be used solely for the benefit of eastern state hospital programs for the long-term care needs of patients with mental disorders. These proceeds shall not supplant or replace funding from traditional sources for the normal operations and maintenance or capital budget projects. It is the intent of this subsection to ensure that eastern state hospital receives the full benefit intended by this section, and that such effect will not be diminished by budget adjustments inconsistent with this intent.

(4) The initial term of a lease under subsection (1) of this section entered into after January 1, 1996, and involving the

grounds of eastern state hospital, shall not exceed fifty years. This subsection applies retroactively, and the department shall modify any existing leases to comply with the terms of this subsection. No other terms of a lease modified by this subsection may be modified unless both parties agree. [1997 c 349 § 1; 1996 c 261 § 2.]

Additional notes found at www.leg.wa.gov

43.17.370 Prerelease copy of report or study to local government. (1) An agency, prior to releasing a final report or study regarding management by a county, city, town, special purpose district, or other unit of local government of a program delegated to the local government by the agency or for which the agency has regulatory responsibility, shall provide copies of a draft of the report or study at least two weeks in advance of the release of the final report or study to the legislative body of the local government. The agency shall, at the request of a local government legislative body, meet with the legislative body before the release of a final report or study regarding the management of such a program.

(2) For purposes of this section, "agency" means an office, department, board, commission, or other unit of state government, other than a unit of state government headed by a separately elected official. [1997 c 409 § 603.]

Additional notes found at www.leg.wa.gov

43.17.380 Quality management, accountability, and performance system—Definitions. As used in RCW 43.17.385 and 43.17.390:

(1) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education, and all offices of executive branch state government-elected officials, except agricultural commissions under Title 15 RCW.

(2) "Quality management, accountability, and performance system" means a nationally recognized integrated, interdisciplinary system of measures, tools, and reports used to improve the performance of a work unit or organization. [2005 c 384 § 2.]

Findings—2005 c 384: "The legislature finds that:

(1) Citizens demand and deserve accountability of public programs and activities. Public programs must continuously improve accountability and performance reporting in order to increase public trust.

(2) Washington state government agencies must continuously improve their management and performance so citizens receive maximum value for their tax dollars.

(3) The application of best practices in performance management has improved results and accountability in many Washington state agencies and other jurisdictions.

(4) All Washington state agencies must develop a performance-based culture that can better demonstrate accountability and achievement." [2005 c 384 § 1.]

43.17.385 Quality management, accountability, and performance system. (1) Each state agency shall, within available funds, develop and implement a quality management, accountability, and performance system to improve the public services it provides.

(2) Each agency shall ensure that managers and staff at all levels, including those who directly deliver services, are engaged in the system and shall provide managers and staff with the training necessary for successful implementation.

(2022 Ed.)

(3) Each agency shall, within available funds, ensure that its quality management, accountability, and performance system:

(a) Uses strategic business planning to establish goals, objectives, and activities consistent with the priorities of government, as provided in statute;

(b) Engages stakeholders and customers in establishing service requirements and improving service delivery systems;

(c) Includes clear, relevant, and easy to understand measures for each activity;

(d) Gathers, monitors, and analyzes activity data;

(e) Uses the data to evaluate the effectiveness of programs to manage process performance, improve efficiency, and reduce costs;

(f) Establishes performance goals and expectations for employees that reflect the organization's objectives; and provides for regular assessments of employee performance;

(g) Uses activity measures to report progress toward agency objectives to the agency director at least quarterly;

(h) Where performance is not meeting intended objectives, holds regular problem-solving sessions to develop and implement a plan for addressing gaps; and

(i) Allocates resources based on strategies to improve performance.

(4) Each agency shall conduct a yearly assessment of its quality management, accountability, and performance system.

(5) State agencies whose chief executives are appointed by the governor shall report to the governor on agency performance at least quarterly. The reports shall be included on the agencies', the governor's, and the office of financial management's websites.

(6) The governor shall report annually to citizens on the performance of state agency programs. The governor's report shall include:

(a) Progress made toward the priorities of government as a result of agency activities; and

(b) Improvements in agency quality management systems, fiscal efficiency, process efficiency, asset management, personnel management, statutory and regulatory compliance, and management of technology systems.

(7) Each state agency shall integrate efforts made under this section with other management, accountability, and performance systems, including procedures implemented under chapter 43.42A RCW, undertaken under executive order or other authority. [2014 c 68 § 6; 2005 c 384 § 3.]

Findings—2005 c 384: See note following RCW 43.17.380.

43.17.390 Quality management, accountability, and performance system—Independent assessment. Starting in 2012, and at least once every three years thereafter, each agency shall apply to the Washington state quality award, or similar organization, for an independent assessment of its quality management, accountability, and performance system. The assessment shall evaluate the effectiveness of all elements of its management, accountability, and performance system, including: Leadership, strategic planning, customer focus, analysis and information, employee performance management, and process improvement. The purpose of the assessment is to recognize best practice and identify

improvement opportunities. [2009 c 564 § 931; 2005 c 384 § 4.]

Findings—2005 c 384: See note following RCW 43.17.380.

Additional notes found at www.leg.wa.gov

43.17.400 Disposition of state-owned land—Notice to governmental entities—Right of first refusal. (1) Before any state agency may dispose of surplus state-owned real property to a private or any nongovernmental party, the agency must provide written notice to the following governmental entities at least sixty days before entering into any proposed disposition agreement:

- (a) All other state agencies;
- (b) Each federal agency operating within the state; and
- (c) The governing authority of each county, city, town, special purpose district, and federally recognized Indian tribe in which the land is located.

(2) The state agency must dispose of the property, for continued public benefit as defined in RCW 39.33.015, to any governmental entity responding within the notification period, upon mutual agreement reached within a reasonable time period after the response is received. Priority must be given to state agencies. The disposition may be for any terms and conditions agreed upon by the proper authorities of each party, in accordance with RCW 39.33.010, except where the disposition at fair market value is required by law.

(3) The requirements of this section are in addition and supplemental to other requirements of the laws of this state.

(4) For purposes of this section, "disposition" means the sale, exchange, or other action resulting in a transfer of ownership.

(5) The requirements of this section do not apply to the department of transportation. [2018 c 217 § 2; 2015 c 225 § 64; 2007 c 62 § 2.]

Finding—Intent—2007 c 62: "The legislature recognizes that state agencies dispose of state-owned lands when these lands cannot be advantageously used by the agency or when dispositions are beneficial to the public's interest. The legislature also recognizes that dispositions of state-owned land can create opportunities for counties, cities, and towns wishing to purchase or otherwise acquire the lands, and citizens wishing to enjoy the lands for recreational or other purposes. However, the legislature finds that absent a specific requirement obligating state agencies to notify affected local governments of proposed land dispositions, occasions for governmental acquisition and public enjoyment of certain lands can be permanently lost.

Therefore, the legislature intends to enact an express and supplemental requirement obligating state agencies to notify local governments of proposed land dispositions." [2007 c 62 § 1.]

Additional notes found at www.leg.wa.gov

43.17.410 Sensitive personal information of vulnerable individuals or in-home caregivers for vulnerable populations—Release of information prohibited. (1) To protect vulnerable individuals and their children from identity crimes and other forms of victimization, neither the state nor any of its agencies shall release sensitive personal information of vulnerable individuals or sensitive personal information of in-home caregivers for vulnerable populations, as those terms are defined in RCW 42.56.640. [2017 c 4 § 10 (Initiative Measure No. 1501, approved November 8, 2016).]

Intent—2017 c 4 §§ 8, 10, and 11 (Initiative Measure No. 1501): See note following RCW 42.56.640.

Short title—Intent—Construction—2017 c 4 (Initiative Measure No. 1501): See notes following RCW 9.35.005.

43.17.420 Immigration and citizenship status—Definitions. The definitions in this section apply throughout this section and RCW 43.330.510, 43.10.310, 43.17.425, 10.93.160, and 43.10.315, and sections 8 and 9, chapter 440, Laws of 2019 unless the context clearly requires otherwise.

(1) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law issued by a federal immigration authority. A "civil immigration warrant" includes, but is not limited to, administrative warrants issued on forms I-200 or I-203, or their successors, and civil immigration warrants entered in the national crime information center database.

(2) "Court order" means a directive issued by a judge or magistrate under the authority of Article III of the United States Constitution or Article IV of the Washington Constitution. A "court order" includes but is not limited to warrants and subpoenas.

(3) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of the United States department of homeland security including but not limited to its subagencies, immigration and customs enforcement and customs and border protection, and any present or future divisions thereof, charged with immigration enforcement.

(4) "Health facility" has the same meaning as the term "health care facility" provided in RCW 70.175.020, and includes substance abuse treatment facilities.

(5) "Hold request" or "immigration detainer request" means a request from a federal immigration authority, without a court order, that a state or local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to a federal immigration authority. A "hold request" or "immigration detainer request" includes, but is not limited to, department of homeland security form I-247A or prior or subsequent versions of form I-247.

(6) "Immigration detention agreement" means any contract, agreement, intergovernmental service agreement, or memorandum of understanding that permits a state or local law enforcement agency to house or detain individuals for federal civil immigration violations.

(7) "Immigration or citizenship status" means as such status has been established to such individual under the immigration and nationality act.

(8) "Language services" includes but is not limited to translation, interpretation, training, or classes. Translation means written communication from one language to another while preserving the intent and essential meaning of the original text. Interpretation means transfer of an oral communication from one language to another.

(9) "Local government" means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to, cities, counties, school districts, and special purpose districts.

(10) "Local law enforcement agency" means any agency of a city, county, special district, or other political subdivision of the state that is a general authority Washington law enforcement agency, as defined by RCW 10.93.020, or that is authorized to operate jails or to maintain custody of individu-

als in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.

(11) "Notification request" means a request from a federal immigration authority that a state or local law enforcement agency inform a federal immigration authority of the release date and time in advance of the release of an individual in its custody. "Notification request" includes, but is not limited to, the department of homeland security's form I-247A, form I-247N, or prior or subsequent versions of such forms.

(12) "Physical custody of the department of corrections" means only those individuals detained in a state correctional facility but does not include minors detained pursuant to chapter 13.40 RCW, or individuals in community custody as defined in RCW 9.94A.030.

(13) "Public schools" means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board and all institutions of higher education as defined in RCW 28B.10.016.

(14) "School resource officer" means a commissioned law enforcement officer in the state of Washington with sworn authority to uphold the law and assigned by the employing police department or sheriff's office to work in schools to ensure school safety. By building relationships with students, school resource officers work alongside school administrators and staff to help students make good choices. School resource officers are encouraged to focus on keeping students out of the criminal justice system when possible and not impose criminal sanctions in matters that are more appropriately handled within the educational system.

(15) "State agency" has the same meaning as provided in RCW 42.56.010.

(16) "State law enforcement agency" means any agency of the state of Washington that:

- (a) Is a general authority Washington law enforcement agency as defined by RCW 10.93.020;
- (b) Is authorized to operate prisons or to maintain custody of individuals in prisons; or
- (c) Is authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities. [2019 c 440 § 2.]

Findings—Construction—Conflict with federal requirements—
Effective date—2019 c 440: See notes following RCW 43.17.425.

43.17.425 Immigration and citizenship status—State agency restrictions.

(1) Except as provided in subsection (3) of this section, no state agency, including law enforcement, may use agency funds, facilities, property, equipment, or personnel to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target Washington residents solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin. This subsection does not apply to any program with the primary purpose of providing persons with services or benefits, or to RCW 9.94A.685.

(2) Except as provided in subsection (3) of this section, the state agencies listed in subsections (5) and (6) of this sec-

tion shall review their policies and identify and make any changes necessary to ensure that:

(a) Information collected from individuals is limited to the minimum necessary to comply with subsection (3) of this section;

(b) Information collected from individuals is not disclosed except as necessary to comply with subsection (3) of this section or as permitted by state or federal law;

(c) Agency employees may not condition services or request information or proof regarding a person's immigration status, citizenship status, or place of birth; and

(d) Public services are available to, and agency employees shall serve, all Washington residents without regard to immigration or citizenship status.

(3) Nothing in subsection (1) or (2) of this section prohibits the collection, use, or disclosure of information that is:

- (a) Required to comply with state or federal law;
- (b) In response to a lawfully issued court order;
- (c) Necessary to perform agency duties, functions, or other business, as permitted by statute or rule, conducted by the agency that is not related to immigration enforcement;
- (d) Required to comply with policies, grants, waivers, or other requirements necessary to maintain funding; or
- (e) In the form of deidentified or aggregated data, including census data.

(4) Any changes to agency policies required by this section must be made as expeditiously as possible, consistent with agency procedures. Final policies must be published.

(5) The following state agencies shall begin implementation of this section within twelve months after May 21, 2019, and demonstrate full compliance by December 1, 2021:

- (a) Department of licensing;
- (b) Department of labor and industries;
- (c) Employment security department;
- (d) Department of revenue;
- (e) Department of health;
- (f) Health care authority;
- (g) Department of social and health services;
- (h) Department of children, youth, and families;
- (i) Office of the superintendent of public instruction;
- (j) State patrol.

(6) The following state agencies may begin implementation of this section by December 1, 2021, and must demonstrate full compliance by December 1, 2023:

- (a) Department of agriculture;
- (b) Department of financial institutions;
- (c) Department of fish and wildlife;
- (d) Department of natural resources;
- (e) Department of retirement systems;
- (f) Department of services for the blind;
- (g) Department of transportation. [2019 c 440 § 5.]

Findings—2019 c 440: "(1) The legislature finds that Washington state has a thriving economy that spans both east and west, and encompasses agriculture, food processing, timber, construction, health care, technology, and the hospitality industries.

(2) The legislature also finds that Washington employers rely on a diverse workforce to ensure the economic vitality of the state. Nearly one million Washingtonians are immigrants, which is one out of every seven people in the state. Immigrants make up over sixteen percent of the workforce. In addition, fifteen percent of all business owners in the state were born outside the country, and these business owners have a large impact on the economy through innovation and the creation of jobs. Immigrants make a significant contribution to the economic vitality of this state, and it is essen-

tial that the state have policies that recognize their importance to Washington's economy.

(3) In recognition of this significant contribution to the overall prosperity and strength of Washington state, the legislature, therefore, has a substantial and compelling interest in ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working." [2019 c 440 § 1.]

Construction—2019 c 440: "No section of this act is intended to limit or prohibit any state or local agency or officer from:

(1) Sending to, or receiving from, federal immigration authorities the citizenship or immigration status of a person, or maintaining such information, or exchanging the citizenship or immigration status of an individual with any other federal, state, or local government agency, in accordance with 8 U.S.C. Sec. 1373; or

(2) Complying with any other state or federal law." [2019 c 440 § 8.]

Conflict with federal requirements—2019 c 440: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2019 c 440 § 9.]

Effective date—2019 c 440: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 21, 2019]." [2019 c 440 § 12.]

Chapter 43.19 RCW

DEPARTMENT OF ENTERPRISE SERVICES

(Formerly: Department of general administration)

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Administration of the jobs act: RCW 43.331.040.

Archives and records management division: Chapter 40.14 RCW.

Buildings, provision to be made for use by aged and individuals with disabilities: Chapter 70.92 RCW.

Capital projects advisory review board, provision of staff support: RCW 39.10.220.

Capitol campus design advisory committee: RCW 43.34.080.

Department created: RCW 43.17.010.

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appointment: RCW 43.17.020.

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control of traffic on capitol grounds: RCW 46.08.150.

oath: RCW 43.17.030.

vacancy in office of: RCW 43.17.020, 43.17.040.

East capitol site, powers and duties: Chapter 79.24 RCW.

Federal surplus property, powers and duties: Chapter 39.32 RCW.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

Inventory of state-owned property: RCW 43.19.19201, 43.19.805, 43.20A.035, 43.20A.037, 43.63A.510, 43.82.150, 47.12.064, 72.09.055, and 79.02.400.

Office located at state capital: RCW 43.17.050.

Parking facilities and traffic on capitol grounds: RCW 46.08.150 and 79.24.300 through 79.24.320.

Rules and regulations: RCW 43.17.060.

43.19.003 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of enterprise services.

(2) "Director" means the director of enterprise services.

(3) "State agency" means every state agency, office, officer, board, commission, institution, and institution of higher education, including all state universities, regional universities, The Evergreen State College, and community and technical colleges. [2017 c 318 § 1; 2011 1st sp.s. c 43 § 102.]

Purpose—2011 1st sp.s. c 43: "To maximize the benefits to the public, state government should be operated in an efficient and effective manner. The department of enterprise services is created to provide centralized leadership in efficiently and cost-effectively managing resources necessary to support the delivery of state government services. The mission of the department is to implement a world-class, customer-focused organization that provides valued products and services to government and state residents." [2011 1st sp.s. c 43 § 101.]

Additional notes found at www.leg.wa.gov

43.19.005 Department created—Powers and duties.

(1) The department of enterprise services is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 43, Laws of 2011 1st sp. sess. and such other powers and duties as may be authorized by law.

(2) In addition to the powers and duties as provided in chapter 43, Laws of 2011 1st sp. sess., the department shall provide products and services to support state agencies, and may enter into agreements with any other governmental entity or a public benefit nonprofit organization, in compliance with RCW 39.34.055, to furnish such products and services as deemed appropriate by both parties. The agreement shall provide for the reimbursement to the department of the reasonable cost of the products and services furnished. All

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governmental entities of this state may enter into such agreements, unless otherwise prohibited. [2012 c 224 § 25; 2011 1st sp.s. c 43 § 103.]

Effective date—2012 c 224: See RCW 39.26.900.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.008 Director—Executive powers and management—Review of programs and services—Audit. (1) The executive powers and management of the department shall be administered as described in this section.

(2) The executive head and appointing authority of the department is the director. The director is appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor. The director is paid a salary fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(3) The director may employ staff members, who are exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter, and such other duties as may be authorized by law. The director may delegate any power or duty vested in him or her by chapter 43, Laws of 2011 1st sp. sess. or other law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW.

(4) The internal affairs of the department are under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create the administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

(5) Until June 30, 2018, at the beginning of each fiscal biennium, the office of financial management shall conduct a review of the programs and services that are performed by the department to determine whether the program or service may be performed by the private sector in a more cost-efficient and effective manner than being performed by the department. In conducting this review, the office of financial management shall:

(a) Examine the existing activities currently being performed by the department, including but not limited to an examination of services for their performance, staffing, capital requirements, and mission. Programs may be broken down into discrete services or activities or reviewed as a whole; and

(b) Examine the activities to determine which specific services are available in the marketplace and what potential for efficiency gains or savings exist.

(i) As part of the review in this subsection (5), the office of financial management shall select up to six activities or services that have been determined as an activity that may be provided by the private sector in a cost-effective and efficient

manner, including for the 2011-2013 fiscal biennium the bulk printing services. The office of financial management may consult with affected industry stakeholders in making its decision on which activities to contract for services. Priority for selection shall be given to agency activities or services that are significant, ongoing functions.

(ii) The office of financial management must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(iii) For each of the selected activities, the department shall use a request for information, request for proposal, or other procurement process to determine if a contract for the activity would result in the activity being provided at a reduced cost and with greater efficiency.

(iv) The request for information, request for proposal, or other procurement process must contain measurable standards for the performance of the contract.

(v) The department may contract with one or more vendors to provide the service as a result of the procurement process.

(vi) If the office of financial management determines via the procurement process that the activity cannot be provided by the private sector at a reduced cost and greater efficiency, the department of enterprise services may cancel the procurement without entering into a contract and shall promptly notify the legislative fiscal committees of such a decision.

(vii) The department of enterprise services, in consultation with the office of financial management, must establish a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards. No contracts may be renewed without a review of these measures.

(viii) The office of financial management shall prepare a biennial report summarizing the results of the examination of the agency's programs and services. In addition to the programs and services examined and the result of the examination, the report shall provide information on any procurement process that does not result in a contract for the services. During each regular legislative session held in odd-numbered years, the legislative fiscal committees shall hold a public hearing on the report and the department's activities under this section.

(ix) The joint legislative audit and review committee shall conduct an audit of the implementation of this subsection (5), and report to the legislature by January 1, 2018, on the results of the audit. The report must include an estimate of additional costs or savings to taxpayers as a result of the contracting out provisions. [2011 1st sp.s. c 43 § 104.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.011 Director—Powers and duties. (1) The director of enterprise services shall supervise and administer the activities of the department of enterprise services and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Accept and expend gifts and grants that are related to the purposes of this chapter, whether such grants be of federal or other funds;

(c) Appoint deputy and assistant directors and such other special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department;

(f) Apply for grants from public and private entities, and receive and administer any grant funding received for the purpose and intent of this chapter; and

(g) Perform other duties as are necessary and consistent with law.

(3) The director may establish additional advisory groups as may be necessary to carry out the purposes of this chapter. [2011 1st sp.s. c 43 § 201; 1999 c 229 § 2.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.014 Notification requirements. Actions under this chapter are subject to the notification requirements of RCW 43.17.400. [2007 c 62 § 12.]

Finding—Intent—Severability—2007 c 62: See notes following RCW 43.17.400.

43.19.015 Certain powers and duties of director of public institutions transferred to director of financial institutions. The director of financial institutions shall have the power and duties of the director of public institutions contained in the following chapters of RCW: Chapter 33.04 RCW concerning savings and loan associations; and chapter 39.32 RCW concerning purchase of federal property. [1994 c 92 § 495; 1984 c 29 § 2; 1983 c 3 § 101; 1981 c 115 § 2; 1965 c 8 § 43.19.015. Prior: 1955 c 285 § 18.]

Additional notes found at www.leg.wa.gov

43.19.025 Enterprise services account. The enterprise services account is created in the custody of the state treasurer and shall be used for all activities conducted by the department, except information technology services. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. During the 2013-2015 fiscal biennium, the director of the office of financial management may authorize expenditures from the account for the provision of small agency client services. [2014 c 221 § 915; 2013 c 251 § 2; 2011 1st sp.s. c 43 § 202; 2002 c 332 § 3; 2001 c 292 § 2; 1998 c 105 § 1.]

Effective date—2014 c 221: See note following RCW 28A.710.260.

Residual balance of funds—Effective date—2013 c 251: See notes following RCW 41.06.280.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2002 c 332: See notes following RCW 43.19.760.

Additional notes found at www.leg.wa.gov

43.19.035 Commemorative works account. (1) The commemorative works account is created in the custody of the state treasurer and shall be used by the department of enterprise services for the ongoing care, maintenance, and repair of commemorative works on the state capitol grounds. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not necessary for expenditures.

(2) For purposes of this section, "state capitol grounds" means buildings and land owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, the north capitol campus, the Tumwater campus, the Lacey campus, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake. [2011 1st sp.s. c 43 § 203; 2005 c 16 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.125 Capitol buildings and grounds—Custody and control. (1) The director of enterprise services shall have custody and control of the capitol buildings and grounds, supervise and direct proper care, heating, lighting and repairing thereof, and designate rooms in the capitol buildings to be occupied by various state officials.

(2) During the 2007-2009 biennium, responsibility for development of the "Wheeler block" on the capitol campus as authorized in section 6013, chapter 520, Laws of 2007 shall be transferred from the department of general administration to the department of information services. [2011 1st sp.s. c 43 § 204; 2007 c 520 § 6014; 1965 c 8 § 43.19.125. Prior: 1959 c 301 § 2; 1955 c 285 § 9.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Capitol campus design advisory committee: RCW 43.34.080.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.600.

Housing for state offices: Chapter 43.82 RCW.

Parking facilities and traffic on capitol grounds: RCW 79.24.300 through 79.24.320, 46.08.150.

Public buildings, earthquake standards for construction: Chapter 70.86 RCW.

Additional notes found at www.leg.wa.gov

43.19.19054 Exemptions from statewide policy for purchasing and material control. The provisions of *RCW 43.19.1905 do not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions. [2012 c 2 § 201 (Initiative Measure No. 1183, approved November 8, 2011); 1975-'76 2nd ex.s. c 21 § 7.]

***Reviser's note:** RCW 43.19.1905 was repealed by 2012 c 224 § 29, effective January 1, 2013.

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

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43.19.1917 Records of equipment owned by state—Inspection—"State equipment" defined. All state agencies, including educational institutions, shall maintain a perpetual record of ownership of state owned equipment, which shall be available for the inspection and check of those officers who are charged by law with the responsibility for auditing the records and accounts of the state organizations owning the equipment, or to such other special investigators and others as the governor may direct. In addition, these records shall be made available to members of the legislature, the legislative committees, and legislative staff on request.

All state agencies, including educational institutions, shall account to the office of financial management upon request for state equipment owned by, assigned to, or otherwise possessed by them and maintain such records as the office of financial management deems necessary for proper accountability therefor. The office of financial management shall publish a procedural directive for compliance by all state agencies, including educational institutions, which establishes a standard method of maintaining records for state owned equipment, including the use of standard state forms. This published directive also shall include instructions for reporting to the department all state equipment which is excess to the needs of state organizations owning such equipment. The term "state equipment" means all items of machines, tools, furniture, or furnishings other than expendable supplies and materials as defined by the office of financial management. [2011 1st sp.s. c 43 § 214; 1979 c 88 § 3; 1975-'76 2nd ex.s. c 21 § 9; 1969 ex.s. c 53 § 2; 1965 c 8 § 43.19.1917. Prior: 1959 c 178 § 9.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.1919 Surplus personal property—Sale, exchange—Exceptions and limitations—Transferring ownership of department-owned vessel. (1) The department shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund. This requirement is subject to the following exceptions and limitations:

(a) This section does not apply to property under RCW 27.53.045, 28A.335.180, or 43.19.1920;

(b) Sales of capital assets may be made by the department and a credit established for future purchases of capital items as provided for in chapter 39.26 RCW;

(c) Personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the department to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director to be in the best interest of the state. The department shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property;

(d) This section does not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts;

(e) A state agency having a surplus personal property asset with a fair market value of less than five hundred dollars may transfer the asset to another state agency without charging fair market value. A state agency conducting this action must maintain adequate records to comply with agency inventory procedures and state audit requirements.

(2)(a) Prior to transferring ownership of a department-owned vessel, the department shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(b) If the department determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the department may: (i) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (ii) permanently dispose of the vessel by landfill, deconstruction, or other related method. [2015 c 79 § 12; 2013 c 291 § 5; 2011 1st sp.s. c 43 § 215; 2000 c 183 § 1; 1997 c 264 § 2; (1995 2nd sp.s. c 14 § 513 expired June 30, 1997); 1991 c 216 § 2; 1989 c 144 § 1; 1988 c 124 § 8; 1975-'76 2nd ex.s. c 21 § 11; 1965 c 8 § 43.19.1919. Prior: 1959 c 178 § 10.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—1991 c 216: "The legislature finds that (1) there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment; (2) there are many nonprofit organizations and units of local government that provide shelter and other assistance to these persons but that these organizations are finding it difficult to meet the increasing demand for such assistance; and (3) the numerous agencies and institutions of state government generate a significant quantity of surplus, tangible personal property that would be of great assistance to homeless persons throughout the state. Therefore, the legislature finds that it is in the best interest of the state to provide for the donation of state-owned, surplus, tangible property to assist the homeless in meeting their basic needs." [1991 c 216 § 1.]

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

Additional notes found at www.leg.wa.gov

43.19.19190 Surplus property—Exemption for original or historic state capitol furnishings. Original or historic furnishings from the state capitol group under RCW 27.48.040 do not constitute surplus property under this chapter. [1999 c 343 § 3.]

Findings—Purpose—1999 c 343: See note following RCW 27.48.040.

43.19.19191 Surplus computers and computer-related equipment—Donation to school districts or educational service districts. (1) In addition to disposing of property under RCW 28A.335.180, 39.33.010, 43.19.1919, and 43.19.1920, state-owned, surplus computers and computer-related equipment may be donated to any school district or educational service district under the guidelines and distribution standards established pursuant to subsection (2) of this section.

(2) The department and office of the superintendent of public instruction shall jointly develop guidelines and distri-

bution standards for the donation of state-owned, surplus computers and computer-related equipment to school districts and educational service districts. The guidelines and distribution standards shall include considerations for quality, school-district needs, and accountability, and shall give priority to meeting the computer-related needs of children with disabilities, including those disabilities necessitating the portability of laptop computers. The guidelines must be updated as needed. [2011 1st sp.s. c 43 § 216; 1999 c 186 § 1.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.1920 Surplus personal property—Donation to emergency shelters. The department may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the department of commerce's emergency shelter assistance program; and operated by nonprofit organizations or units of local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The department has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the department to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director has determined that the donation of such property is in the best interest of the state. [2011 1st sp.s. c 43 § 217; 1995 c 399 § 63; 1991 c 216 § 3.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—1991 c 216: See note following RCW 43.19.1919.

Emergency shelter assistance program: Chapter 365-120 WAC.

43.19.19201 Affordable housing—Inventory of suitable property. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the department of commerce by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [2011 1st sp.s. c 43 § 218; 1995 c 399 § 64; 1993 c 461 § 7.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Finding—1993 c 461: See note following RCW 43.63A.510.

43.19.1921 Warehouse facilities—Central salvage—Sales, exchanges, between state agencies. The director shall:

(1) Establish and maintain warehouses for the centralized storage and distribution of such supplies, equipment, and other items of common use in order to effect economies in the purchase of supplies and equipment for state agencies. To provide warehouse facilities the department may, by arrangement with the state agencies, utilize any surplus available state-owned space, and may acquire other needed warehouse facilities by lease or purchase of the necessary premises;

(2) Provide for the central salvage of equipment, furniture, or furnishings used by state agencies, and also by means of such a service provide an equipment pool for effecting sales and exchanges of surplus and unused property by and between state agencies. [2011 1st sp.s. c 43 § 219; 1979 c 151 § 100; 1965 c 8 § 43.19.1921. Prior: 1959 c 178 § 11.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.205 Chapter not applicable to certain transfers of property. This chapter does not apply to transfers of property under *sections 1 and 2 of this act. [2006 c 35 § 5.]

***Reviser's note:** The reference to "sections 1 and 2 of this act" appears to be erroneous. Reference to "sections 2 and 3 of this act" codified as RCW 43.99C.070 and 43.83D.120 was apparently intended. RCW 43.99C.070 and 43.83D.120 were recodified as RCW 43.83.400 and 43.83.410, respectively, by the code reviser September 2015.

Findings—2006 c 35: See note following RCW 43.83.400.

43.19.450 Supervisor of engineering and architecture—Qualifications—Appointment—Powers and duties—Delegation of authority—"State facilities" defined. The director shall appoint a supervisor of engineering and architecture.

A person is not eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director or the director's designee shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable. [2011 1st sp.s. c 43 § 222; 1994 c 264 § 15; 1988 c 36 § 14; 1982 c 98 § 3; 1981 c 136 § 63; 1979 c 141 § 45; 1965 c 8 § 43.19.450. Prior: 1959 c 301 § 4.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.19.455 Purchase of works of art—Procedure. Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the director. [2011 1st sp.s. c 43 § 223; 2005 c 36 § 6; 1990 c 33 § 576; 1983 c 204 § 6; 1974 ex.s. c 176 § 3.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

State art collection: RCW 43.46.095.

Additional notes found at www.leg.wa.gov

43.19.500 Enterprise services account—Use. The enterprise services account shall be used by the department for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of public and historic facilities at the state capitol, as defined in RCW 79.24.710. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of state capitol public and historic facilities as separate operating entities within the account for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be determined jointly by the director and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department with funds to meet its anticipated expenditures during any allotment period.

The director may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department and such other entities. [2011 1st sp.s. c 43 § 224; 2005 c 330 § 6; 1998 c 105 § 9; 1994 c 219 § 17; 1982 c 41 § 2; 1979 c 151 § 101; 1971 ex.s. c 159 § 2.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

Agricultural commodity commissions exempt: RCW 15.04.200.

Enterprise services account—Approval of certain changes required: RCW 43.88.350.

Additional notes found at www.leg.wa.gov

43.19.501 Thurston county capital facilities account.

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department in Thurston county.

During the 2019-2021 and 2021-2023 fiscal biennia, the Thurston county capital facilities account may be appropriated for costs associated with staffing to support capital budget and project activities and lease and facility oversight activities. During the 2021-2023 fiscal biennium, the Thurston county capital facilities account may be appropriated for activities related to Capitol Lake long-term management planning, as provided in section 1057, chapter 296, Laws of 2022. [2022 c 296 § 7011; 2021 c 332 § 7013; 2020 c 356 § 7005; 2018 c 2 § 7027. Prior: 2016 c 202 § 58; prior: 2015 3rd sp.s. c 3 § 7031; 2011 1st sp.s. c 50 § 943; 2011 1st sp.s. c 43 § 225; 2009 c 564 § 932; 2008 c 328 § 6016; 1994 c 219 § 18.]

Effective date—2022 c 296: See note following RCW 43.63A.125.

Effective date—2021 c 332: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 18, 2021]." [2021 c 332 § 7051.]

Effective date—2020 c 356: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 3, 2020]." [2020 c 356 § 7011.]

Effective date—2018 c 2: See note following RCW 28B.10.027.

Effective date—2015 3rd sp.s. c 3: See note following RCW 43.160.080.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

Additional notes found at www.leg.wa.gov

43.19.560 Motor vehicle transportation service—Definitions. As used in RCW 43.19.565 through 43.19.635, *43.41.130 and *43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall also include the Washington state school directors' association, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and other support services to state agencies for the conduct of official state business. [2011 1st sp.s. c 43 § 230; 1983 c 187 § 3; 1975 1st ex.s. c 167 § 2.]

***Reviser's note:** RCW 43.41.130 and 43.41.140 were recodified as RCW 43.19.622 and 43.19.623, respectively, pursuant to 2015 3rd sp.s. c 1 § 325.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Power to appoint or employ personnel does not include power to provide state owned or leased vehicle: RCW 43.01.150.

Additional notes found at www.leg.wa.gov

43.19.565 Motor vehicle transportation service—Powers and duties—Agency exemptions. The department shall establish a motor vehicle transportation service which is hereby empowered to:

(1) Provide suitable motor vehicle transportation services to state agencies on either a temporary or permanent basis and upon such demonstration of need as the department may require;

(2) Provide motor pools for the use of state agencies located in the Olympia area and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies. Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department;

(3) Establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles; and

(4) Establish guidelines, procedures, and standards for fleet operations that other state agencies and institutions of

higher education may adopt. The guidelines, procedures, and standards shall be consistent with and carry out the objectives of any general policies adopted by the office of financial management under *RCW 43.41.130.

Unless otherwise determined by the director after consultation with the office of financial management, vehicles owned and managed by the department of transportation, the department of natural resources, and the Washington state patrol are exempt from the requirements of subsections (1), (2), and (4) of this section. [2011 1st sp.s. c 43 § 231; 2005 c 214 § 1; 1998 c 111 § 3; 1975 1st ex.s. c 167 § 3.]

***Reviser's note:** RCW 43.41.130 was recodified as RCW 43.19.622 pursuant to 2015 3rd sp.s. c 1 § 325.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.19.570 Motor vehicle transportation service—Responsibilities—Agreements with other agencies—Alternative fuels and clean technologies. (1) The department shall direct and be responsible for the acquisition, operation, maintenance, storage, repair, and replacement of state motor vehicles under its control. The department shall utilize state facilities available for the maintenance, repair, and storage of such motor vehicles, and may provide directly or by contract for the maintenance, repair, and servicing of all motor vehicles, and other property related thereto and under its control.

(2) The department may arrange, by agreement with agencies, for the utilization by one of the storage, repair, or maintenance facilities of another, with such provision for charges and credits as may be agreed upon. The department may acquire and maintain storage, repair, and maintenance facilities for the motor vehicles under its control from such funds as may be appropriated by the legislature.

(3)(a) The legislature finds that a clean environment is important and that global warming effects may be offset by decreasing the emissions of harmful compounds from motor vehicles. The legislature further finds that the state is in a position to set an example of large scale use of alternative fuels in motor vehicles and other clean technologies.

(b) The department shall consider the use of state vehicles to conduct field tests on alternative fuels in areas where air pollution constraints may be eased by these optional fuels. These fuels should include but are not limited to gas-powered and electric-powered vehicles.

(c) For planned purchases of vehicles using alternative fuels, the department and other state agencies shall explore opportunities to purchase these vehicles together with the federal government, agencies of other states, other Washington state agencies, local governments, or private organizations for less cost. All state agencies must investigate and determine whether or not they can make clean technologies more cost-effective by combining their purchasing power before completing a planned vehicle purchase. [2002 c 285 § 2; 1989 c 113 § 1; 1982 c 163 § 11; 1975 1st ex.s. c 167 § 4.]

Additional notes found at www.leg.wa.gov

43.19.585 Motor vehicle transportation service—Powers and duties. The director or the director's designee shall have general charge and supervision of state motor

pools and motor vehicle transportation services under departmental administration and control.

The director or the director's designee shall (1) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, (2) provide for necessary upkeep and repair, and (3) provide for servicing motor pool vehicles with fuel, lubricants, and other operating requirements. [2011 1st sp.s. c 43 § 232; 1975 1st ex.s. c 167 § 7.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.19.600 Motor vehicle transportation service—Transfer of passenger motor vehicles to department from other agencies—Studies—Agency exemptions. (1) Any passenger motor vehicles currently owned or hereafter acquired by any state agency shall be purchased by or transferred to the department. The director may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, *43.41.130 and *43.41.140 prior to July 1, 1975, if he or she deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of financial management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall direct the transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The department shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, if a finding is made based on data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by the director and the director of financial management. Unless otherwise determined by the director after consultation with the office of financial management, vehicles owned and managed by the department of transportation, the department of natural resources, and the Washington state patrol are exempt from the requirements of subsections (1) through (3) of this section. [2011 1st sp.s. c 43 § 233; 2009 c 549 § 5068; 1982 c 163 § 12; 1979 c 151 § 102; 1975 1st ex.s. c 167 § 10.]

***Reviser's note:** RCW 43.41.130 and 43.41.140 were recodified as RCW 43.19.622 and 43.19.623, respectively, pursuant to 2015 3rd sp.s. c 1 § 325.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.19.610 Enterprise services account—Sources—Disbursements. All moneys, funds, proceeds, and receipts as provided by law shall be paid into the enterprise services account. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, *43.41.130 and *43.41.140 as authorized by the director or a duly authorized representative and as may be

provided by law. [2011 1st sp.s. c 43 § 234; 1998 c 105 § 12; 1991 sp.s. c 13 § 35; 1986 c 312 § 902. Prior: 1985 c 405 § 507; 1985 c 57 § 28; 1975 1st ex.s. c 167 § 12.]

***Reviser's note:** RCW 43.41.130 and 43.41.140 were recodified as RCW 43.19.622 and 43.19.623, respectively, pursuant to 2015 3rd sp.s. c 1 § 325.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.19.620 Motor vehicle transportation service—Rules and regulations. The director shall adopt and enforce rules as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, *43.41.130, and *43.41.140. The rules, in addition to other matters, shall provide authority for any agency director or his or her delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

The rules shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of financial management pursuant to *RCW 43.41.130. [2011 1st sp.s. c 43 § 235; 2009 c 549 § 5069; 1989 c 57 § 7; 1979 c 151 § 103; 1975 1st ex.s. c 167 § 14.]

***Reviser's note:** RCW 43.41.130 and 43.41.140 were recodified as RCW 43.19.622 and 43.19.623, respectively, pursuant to 2015 3rd sp.s. c 1 § 325.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.19.622 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use—Strategies to reduce fuel consumption and vehicle emissions—Implementation of fuel economy standards—Reports—Definitions. (1) The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of all motor vehicles owned or operated by any state agency. These policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

(2)(a) By June 15, 2010, the director of the *department of general administration, in consultation with the office and other interested or affected state agencies, shall develop strategies to assist state agencies in reducing fuel consumption and emissions from all classes of vehicles.

(b) In an effort to achieve lower overall emissions for all classes of vehicles, state agencies should, when financially

comparable over the vehicle's useful life, consider purchasing or converting to ultra-low carbon fuel vehicles.

(3) State agencies shall phase in fuel economy standards for motor pools and leased petroleum-based fuel vehicles to achieve an average fuel economy standard of thirty-six miles per gallon for passenger vehicle fleets by 2015.

(4) After June 15, 2010, state agencies shall:

(a) When purchasing new petroleum-based fuel vehicles for vehicle fleets: (i) Achieve an average fuel economy of forty miles per gallon for light duty passenger vehicles; and (ii) achieve an average fuel economy of twenty-seven miles per gallon for light duty vans and sports [sport] utility vehicles; or

(b) Purchase ultra-low carbon fuel vehicles.

(5) State agencies must report annually on the progress made to achieve the goals under subsections (3) and (4) of this section beginning October 31, 2011.

(6) The *department of general administration, in consultation with the office and other affected or interested agencies, shall develop a separate fleet fuel economy standard for all other classes of petroleum-based fuel vehicles and report the progress made toward meeting the fuel consumption and emissions goals established by this section to the governor and the relevant legislative committees by December 1, 2012.

(7) The following vehicles are excluded from the average fuel economy goals established in subsections (3) and (4) of this section: Emergency response vehicles, passenger vans with a gross vehicle weight of eight thousand five hundred pounds or greater, vehicles that are purchased for off-pavement use, ultra-low carbon fuel vehicles, and vehicles that are driven less than two thousand miles per year.

(8) Average fuel economy calculations used under this section for petroleum-based fuel vehicles must be based upon the current United States environmental protection agency composite city and highway mile per gallon rating.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Petroleum-based fuel vehicle" means a vehicle that uses, as a fuel source, more than ten percent gasoline or diesel fuel.

(b) "Ultra-low carbon fuel vehicle" means a vehicle that uses, as a fuel source, at least ninety percent natural gas, hydrogen, biomethane, or electricity. [2010 c 159 § 1; 2009 c 519 § 6; 1982 c 163 § 13; 1980 c 169 § 1; 1979 c 111 § 12; 1975 1st ex.s. c 167 § 5. Formerly RCW 43.41.130.]

***Reviser's note:** The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 § 107.

Findings—2009 c 519: See RCW 70A.05.900.

Commuter ride sharing: Chapter 46.74 RCW.

Motor vehicle management and transportation: RCW 43.19.500 through 43.19.635.

Additional notes found at www.leg.wa.gov

43.19.623 Employee commuting in state-owned or leased vehicle—Policies and regulations. Pursuant to policies and regulations promulgated by the office of financial management, an elected state officer or delegate or a state agency director or delegate may permit an employee to commute in a state-owned or leased vehicle if such travel is on official business, as determined in accordance with RCW 43.19.622, and is determined to be economical and advanta-

geous to the state, or as part of a commute trip reduction program as required by RCW 70A.15.4100. [2021 c 65 § 33; 1993 c 394 § 3; 1979 c 151 § 119; 1975 1st ex.s. c 167 § 15. Formerly RCW 43.41.140.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Finding—Purpose—1993 c 394: See note following RCW 43.01.220. Additional notes found at www.leg.wa.gov

43.19.630 Motor vehicle transportation service—Use of personal motor vehicle. RCW 43.19.560 through 43.19.620, *43.41.130, and *43.41.140 shall not be construed to prohibit a state officer or employee from using his or her personal motor vehicle on state business and being reimbursed therefor, where permitted under state travel policies, rules, and regulations promulgated by the office of financial management, and where such use is in the interest of economic, efficient, and effective management and performance of official state business. [2009 c 549 § 5070; 1989 c 57 § 8; 1979 c 151 § 104; 1975 1st ex.s. c 167 § 16.]

***Reviser's note:** RCW 43.41.130 and 43.41.140 were recodified as RCW 43.19.622 and 43.19.623, respectively, pursuant to 2015 3rd sp.s. c 1 § 325.

Additional notes found at www.leg.wa.gov

43.19.635 Motor vehicle transportation service—Unauthorized use of state vehicles—Procedure—Disciplinary action. (1) The governor, acting through the department and any other appropriate agency or agencies as he or she may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforcement. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any willful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, *43.41.130 and *43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, *43.41.130 and *43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay. [2011 1st sp.s. c 43 § 236; 2009 c 549 § 5071; 1975 1st ex.s. c 167 § 17.]

(2022 Ed.)

***Reviser's note:** RCW 43.41.130 and 43.41.140 were recodified as RCW 43.19.622 and 43.19.623, respectively, pursuant to 2015 3rd sp.s. c 1 § 325.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.19.637 Clean-fuel vehicles—Purchasing requirements. (1) At least thirty percent of all new vehicles purchased through a state contract shall be clean-fuel vehicles.

(2) The percentage of clean-fuel vehicles purchased through a state contract shall increase at the rate of five percent each year.

(3) In meeting the procurement requirement established in this section, preference shall be given to vehicles designed to operate exclusively on clean fuels. In the event that vehicles designed to operate exclusively on clean fuels are not available or would not meet the operational requirements for which a vehicle is to be procured, conventionally powered vehicles may be converted to clean fuel or dual fuel use to meet the requirements of this section.

(4) Fuel purchased through a state contract shall be a clean fuel when the fuel is purchased for the operation of a clean-fuel vehicle.

(5)(a) Weight classes are established by the following motor vehicle types:

(i) Passenger cars;

(ii) Light duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of less than eight thousand five hundred pounds;

(iii) Heavy duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of eight thousand five hundred pounds or more.

(b) This subsection does not place an obligation upon the state or its political subdivisions to purchase vehicles in any number or weight class other than to meet the percent procurement requirement.

(6) The provisions for purchasing clean-fuel vehicles under subsections (1) and (2) of this section are intended as minimum levels. The department should seek to increase the purchasing levels of clean-fuel vehicles above the minimum. The department must also investigate all opportunities to aggregate their purchasing with local governments to determine whether or not they can lower their costs and make it cost-efficient to increase the percentage of clean-fuel or high gas mileage vehicles in both the state and local fleets.

(7) For the purposes of this section, "clean fuels" and "clean-fuel vehicles" shall be those fuels and vehicles meeting the specifications provided for in RCW 70A.25.120. [2021 c 65 § 34; 2002 c 285 § 3; 1991 c 199 § 213.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Finding—1991 c 199: See note following RCW 70A.15.1005.

Additional notes found at www.leg.wa.gov

43.19.642 Biodiesel fuel blends—Use by agencies—Annual report. (1) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a

lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(2) Except as provided in subsection (5) of this section, effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2016, file annual reports with the department of enterprise services documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) By December 1, 2009, the department of enterprise services shall:

(a) Report to the legislature on the average true price differential for biodiesel by blend and location; and

(b) Examine alternative fuel procurement methods that work to address potential market barriers for in-state biodiesel producers and report these findings to the legislature.

(5) During the 2019-2021 and 2021-2023 fiscal biennia, the Washington state ferries is required to use a minimum of five percent biodiesel as compared to total volume of all diesel purchases made by the Washington state ferries for the operation of the Washington state ferries diesel-powered vessels, as long as the price of a B5 or B10 biodiesel blend does not exceed the price of conventional diesel fuel by five percent or more. [2021 c 333 § 703; 2019 c 416 § 703; 2017 c 313 § 703; 2016 c 197 § 2; 2015 1st sp.s. c 10 § 701; 2013 c 306 § 701; 2012 c 86 § 802; 2010 c 247 § 701; 2009 c 470 § 716; 2007 c 348 § 201; 2006 c 338 § 10; 2003 c 17 § 2.]

Effective date—2021 c 333: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 18, 2021]." [2021 c 333 § 1302.]

Effective date—2019 c 416: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 21, 2019]." [2019 c 416 § 1202.]

Effective date—2017 c 313: "Except for sections 705 and 706 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 16, 2017]." [2017 c 313 § 1302.]

Effective date—2015 1st sp.s. c 10: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 11, 2015]." [2015 1st sp.s. c 10 § 1302.]

Effective date—2013 c 306: See note following RCW 47.64.170.

Effective date—2012 c 86: See note following RCW 47.76.360.

Findings—2007 c 348: See RCW 43.325.005.

Findings—Intent—2006 c 338: See note following RCW 19.112.110.

Findings—2003 c 17: "The legislature recognizes that:

(1) Biodiesel is less polluting than petroleum diesel;
 (2) Using biodiesel in neat form or blended with petroleum diesel significantly reduces air toxics and cancer-causing compounds as well as the soot associated with petroleum diesel exhaust;

(3) Biodiesel degrades much faster than petroleum diesel;

(4) Biodiesel is less toxic than petroleum fuels;

(5) The United States environmental protection agency's new emission standards for petroleum diesel that take effect June 1, 2006, will require the addition of a lubricant to ultra-low sulfur diesel to counteract premature wear of injection pumps;

(6) Biodiesel provides the needed lubricity to ultra-low sulfur diesel;

(7) Biodiesel use in state-owned diesel-powered vehicles provides a means for the state to comply with the alternative fuel vehicle purchase requirements of the energy policy act of 1992, P.L. 102-486; and

(8) The state is in a position to set an example of large scale use of biodiesel in diesel-powered vehicles and equipment." [2003 c 17 § 1.]

Additional notes found at www.leg.wa.gov

43.19.643 Biodiesel fuel blends—Definitions. The definitions in this section apply throughout RCW 43.19.642 unless the context clearly requires otherwise.

(1) "Biodiesel" means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

(2) "Ultra-low sulfur diesel" means petroleum diesel in which the sulfur content is not more than thirty parts per million. [2003 c 17 § 3.]

Findings—2003 c 17: See note following RCW 43.19.642.

43.19.646 Coordinating the purchase and delivery of biodiesel—Reports. (1) The department must assist state agencies seeking to meet the biodiesel fuel requirements in RCW 43.19.642 by coordinating the purchase and delivery of biodiesel if requested by any state agency. The department may use long-term contracts of up to ten years, when purchasing from in-state suppliers who use predominantly in-state feedstock, to secure a sufficient and stable supply of biodiesel for use by state agencies.

(2) The department shall compile and analyze the reports submitted under RCW 43.19.642(3) and report in an electronic format its findings and recommendations to the governor and committees of the legislature with responsibility for energy issues, within sixty days from the end of each reporting period. The governor shall consider these reports in determining whether to temporarily suspend minimum renewable fuel content requirements as authorized under RCW 19.112.160. [2011 1st sp.s. c 43 § 237; 2006 c 338 § 12.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—2006 c 338: See note following RCW 19.112.110.

Additional notes found at www.leg.wa.gov

43.19.647 Purchase of biofuels and biofuel blends—Contracting authority. (1) In order to allow the motor vehicle fuel needs of state and local government to be satisfied by Washington-produced biofuels as provided in this chapter, the department of enterprise services as well as local governments may contract in advance and execute contracts with public or private producers, suppliers, or other parties, for the purchase of appropriate biofuels, as that term is defined in *RCW 43.325.010, and biofuel blends. Contract provisions may address items including, but not limited to, fuel standards, price, and delivery date.

(2) The department of enterprise services may combine the needs of local government agencies, including ports, special districts, school districts, and municipal corporations, for the purposes of executing contracts for biofuels and to secure a sufficient and stable supply of alternative fuels. [2015 c 225 § 65; 2007 c 348 § 203.]

*Reviser's note: RCW 43.325.010 expired June 30, 2016.

Findings—2007 c 348: See RCW 43.325.005.

43.19.648 Publicly owned vehicles, vessels, and construction equipment—Fuel usage—Advisory committee—Tires. (1) Effective June 1, 2015, all state agencies, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel. Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department of commerce determines that electricity and biofuel are not reasonably available.

(2)(a) Effective June 1, 2018, all local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel. The department of commerce shall convene an advisory committee of representatives of local government subdivisions, representatives from organizations representing each local government subdivision, and either (i) an electric utility or (ii) a natural gas utility, or both, to work with the department to develop the rules. The department may invite additional stakeholders to participate in the advisory committee as needed and determined by the department.

(b) The following are exempt from this requirement: (i) Transit agencies using compressed natural gas on June 1, 2018, and (ii) engine retrofits that would void warranties. Nothing in this section is intended to require the replacement of equipment before the end of its useful life. Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department of commerce determines that electricity and biofuel are not reasonably available.

(c)(i) Rules adopted pursuant to RCW 43.325.080 must provide the authority for local government subdivisions to elect to exempt police, fire, and other emergency response vehicles, including utility vehicles frequently used for emergency response, from the fuel usage requirement in (a) of this subsection.

(ii) Prior to executing its authority under (c)(i) of this subsection, a local government subdivision must provide notice to the department of commerce of the exemption. The notice must include the rationale for the exemption and an explanation of how the exemption is consistent with rules adopted by the department of commerce.

(d) Before June 1, 2018, local government subdivisions purchasing vessels, vehicles, and construction equipment capable of using biodiesel must request warranty protection for the highest level of biodiesel the vessel, vehicle, or construction equipment is capable of using, up to one hundred percent biodiesel, as long as the costs are reasonably equal to a vessel, vehicle, or construction equipment that is not warranted to use up to one hundred percent biodiesel.

(3) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the department of commerce by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013.

(2022 Ed.)

Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department of commerce determines that electricity and biofuel are not reasonably available. The department of enterprise services, in consultation with the department of commerce, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

(4) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

(5) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric vehicles in each of the state's fleet parking and maintenance facilities.

(6) The department of transportation's obligations under subsection (3) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection (3) of this section.

(7) The department of transportation's obligations under subsection (5) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection (5) of this section unless the department receives federal or private funds for the specific purpose identified in subsection (5) of this section.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. [2013 c 328 § 1; 2012 c 171 § 1; 2011 c 353 § 4; 2009 c 459 § 7; 2007 c 348 § 202.]

Intent—2011 c 353: See note following RCW 36.70A.130.

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Findings—2007 c 348: See RCW 43.325.005.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

43.19.651 Fuel cells and renewable or alternative energy sources. (1) When planning for the capital construction or renovation of a state facility, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources as a primary source of power for applications that require an uninterruptible power source.

(2) When planning the purchase of backup or emergency power systems and remote power systems, state agencies shall consider the utilization of fuel cells and renewable or alternative energy sources instead of batteries or internal combustion engines.

(3) The director of enterprise services shall develop criteria by which state agencies can identify, evaluate, and develop potential fuel cell applications at state facilities.

(4) For the purposes of this section, "fuel cell" means an electrochemical reaction that generates electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst. [2015 c 225 § 66; 2003 c 340 § 1.]

43.19.663 Clean technologies—Purchase—Definitions. (1) The department, in cooperation with public agencies, shall investigate opportunities to aggregate the purchase of clean technologies with other public agencies to determine whether or not combined purchasing can reduce the unit cost of clean technologies.

(2) State agencies that are retail electric customers shall investigate opportunities to aggregate the purchase of electricity produced from generation resources that are fueled by wind or solar energy for their facilities located within a single utility's service area, to determine whether or not combined purchasing can reduce the unit cost of those resources.

(3) No public agency is required under this section to purchase clean technologies at prohibitive costs.

(4)(a) "Electric utility" shall have the same meaning as provided under RCW 19.29A.010.

(b) "Clean technology" includes, but may not be limited to, alternative fueled hybrid-electric and fuel cell vehicles, and distributive power generation.

(c) "Distributive power generation" means the generation of electricity from an integrated or stand-alone power plant that generates electricity from wind energy, solar energy, or fuel cells.

(d) "Retail electric customer" shall have the same meaning as provided under RCW 19.29A.010.

(e) "Facility" means any building owned or leased by a public agency. [2011 1st sp.s. c 43 § 238; 2002 c 285 § 4.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.668 Energy conservation—Legislative finding—Declaration. The legislature finds and declares that the buildings, facilities, equipment, and vehicles owned or leased by state government consume significant amounts of energy and that energy conservation actions, including energy management systems, to provide for efficient energy use in these buildings, facilities, equipment, and vehicles will reduce the costs of state government. In order for the operations of state government to provide the citizens of this state an example of energy use efficiency, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce energy use in state buildings, facilities, equipment, and vehicles within a reasonable period of time. The use of appropriate tree plantings for energy conservation is encouraged as part of this program. [2001 c 214 § 23; 1993 c 204 § 6; 1980 c 172 § 1.]

Findings—2001 c 214: See note following RCW 39.35.010.

Findings—1993 c 204: See note following RCW 35.92.390.

Additional notes found at www.leg.wa.gov

43.19.669 Energy conservation—Purpose. It is the purpose of RCW 43.19.670 through 43.19.685 to require energy audits in state-owned buildings, to require energy

audits as a lease condition in all new, renewed, and renegotiated leases of buildings by the state, to undertake such modifications and installations as are necessary to maximize the efficient use of energy in these buildings, including but not limited to energy management systems, and to establish a policy for the purchase of state vehicles, equipment, and materials which results in efficient energy use by the state.

For a building that is leased by the state, energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the building that is leased by the state when the state leases less than one hundred percent of the building. When implementing cost-effective energy conservation measures in buildings leased by the state, those measures must generate savings sufficient to finance the building modifications and installations over a loan period not greater than ten years and allow repayment during the term of the lease. [2001 c 214 § 24; 1980 c 172 § 2.]

Findings—2001 c 214: See note following RCW 39.35.010.

Additional notes found at www.leg.wa.gov

43.19.670 Energy conservation—Definitions. As used in RCW 43.19.670 through 43.19.685, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a facility which consists of the following elements:

(a) An energy consumption survey which identifies the type, amount, and rate of energy consumption of the facility and its major energy systems. This survey shall be made by the agency responsible for the facility.

(b) A walk-through survey which determines appropriate energy conservation maintenance and operating procedures and indicates the need, if any, for the acquisition and installation of energy conservation measures and energy management systems. This survey shall be made by the agency responsible for the facility if it has technically qualified personnel available. The director of enterprise services shall provide technically qualified personnel to the responsible agency if necessary.

(c) An investment grade audit, which is an intensive engineering analysis of energy conservation and management measures for the facility, net energy savings, and a cost-effectiveness determination.

(2) "Cost-effective energy conservation measures" means energy conservation measures that the investment grade audit concludes will generate savings sufficient to finance project loans of not more than ten years.

(3) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including:

(a) Insulation of the facility structure and systems within the facility;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;

(j) Energy recovery systems;

(k) Energy management systems; and

(l) Such other measures as the director finds will save a substantial amount of energy.

(4) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

(5) "Energy management system" has the definition contained in RCW 39.35.030.

(6) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a state agency to conduct no-cost energy audits, guarantee savings from energy efficiency, provide financing for energy efficiency improvements, install or implement energy efficiency improvements, and agree to be paid for its investment solely from savings resulting from the energy efficiency improvements installed or implemented.

(7) "Energy service company" means a company or contractor providing energy savings performance contracting services.

(8) "Facility" means a building, a group of buildings served by a central energy distribution system, or components of a central energy distribution system.

(9) "Implementation plan" means the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit. [2015 c 225 § 67; 2001 c 214 § 25; 1982 c 48 § 1; 1980 c 172 § 3.]

Findings—2001 c 214: See note following RCW 39.35.010.

Additional notes found at www.leg.wa.gov

43.19.682 Energy conservation to be included in landscape objectives. The director of the department of enterprise services shall seek to further energy conservation objectives among other landscape objectives in planting and maintaining trees upon grounds administered by the department. [2015 c 225 § 68; 1993 c 204 § 9.]

Findings—1993 c 204: See note following RCW 35.92.390.

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43.19.685 Lease covenants, conditions, and terms to be developed—Applicability. The director shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and

(3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director, in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet. [2011 1st sp.s. c 43 § 239; 1982 c 48 § 4; 1980 c 172 § 6.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.691 Municipalities—Energy audits and efficiency. (1) Municipalities may conduct energy audits and implement cost-effective energy conservation measures among multiple government entities.

(2) All municipalities shall report to the department if they implemented or did not implement, during the previous biennium, cost-effective energy conservation measures aggregated among multiple government entities. The reports must be submitted to the department by September 1, 2007, and by September 1, 2009. In collecting the reports, the department shall cooperate with the appropriate associations that represent municipalities.

(3) The department shall prepare a report summarizing the reports submitted by municipalities under subsection (2) of this section and shall report to the committee by December 31, 2007, and by December 31, 2009.

(4) For the purposes of this section, the following definitions apply:

(a) "Committee" means the joint committee on energy supply and energy conservation in chapter 44.39 RCW.

(b) "Cost-effective energy conservation measures" has the meaning provided in RCW 43.19.670.

(c) "Department" means the department of enterprise services.

(d) "Energy audit" has the meaning provided in RCW 43.19.670.

(e) "Municipality" has the meaning provided in RCW 39.04.010. [2015 c 225 § 69; 2005 c 299 § 5.]

Intent—2005 c 299: See note following RCW 44.39.010.

43.19.695 Bonds to finance conservation measures. Financing to implement conservation measures, including fees charged by the department, may be carried out with bonds issued by the Washington economic development

finance authority under chapter 43.163 RCW. [2005 c 299 § 6.]

Intent—2005 c 299: See note following RCW 44.39.010.

43.19.708 Certified veteran-owned businesses—Identification in vendor registry. The department shall identify in the department's vendor registry all vendors that are veteran-owned businesses as certified by the department of veterans affairs under RCW 43.60A.195. [2011 1st sp.s. c 43 § 242; 2010 c 5 § 5.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Purpose—Construction—2010 c 5: See notes following RCW 43.60A.010.

43.19.710 Consolidated mail service—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

(3) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees.

(4) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services. [2011 1st sp.s. c 43 § 243; 1993 c 219 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—1993 c 219: "It is the intent of the legislature to consolidate mail functions for state government in a manner that will provide timely, effective, efficient, and less-costly mail service for state government." [1993 c 219 § 1.]

Additional notes found at www.leg.wa.gov

43.19.715 Consolidated mail service—Area served. The director shall establish a consolidated mail service to handle all incoming, outgoing, and internal mail in the 98504 zip code area or successor zip code areas for agencies in the Olympia, Tumwater, and Lacey area. The director may include additional geographic areas within the consolidated mail service, based upon his or her determination. The department shall also provide mail services to legislative and judicial agencies in the Olympia, Tumwater, and Lacey area upon request.

The director may bill state agencies and other entities periodically for mail services rendered. [1993 c 219 § 3.]

Reviser's note: The definitions in RCW 43.19.710 apply to this section.

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

43.19.720 Consolidated mail service—Review needs of state agencies. The department, in cooperation with the office of financial management, shall review current and prospective needs of state agencies for any equipment to process

mail throughout state government. If after such consultation, the department should find that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition, then the property shall be transferred or otherwise disposed.

After making such finding, the department shall direct the transfer of existing state property, facilities, and equipment pertaining to the consolidated mail service or United States postal service. Any dispute concerning the benefits in state governmental economy, efficiency, and effectiveness shall be resolved by the office of financial management. [1993 c 219 § 5.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

43.19.725 Small businesses—Increased registration in enterprise vendor registration and bid notification system—Increased contracts and purchasing—Model plan—Technical assistance—Recordkeeping. (1) The department must develop a model plan for state agencies to increase: (a) The number of small businesses registering in the state's enterprise vendor registration and bid notification system; (b) the number of such registered small businesses annually receiving state contracts for goods and services purchased by the state; and (c) the percentage of total state dollars spent for goods and services purchased from such registered small businesses. The goal of the plan is to increase the number of small businesses receiving state contracts as well as the percentage of total state dollars spent for goods and services from small businesses registered in the state's enterprise vendor registration and bid notification system by at least fifty percent in fiscal year 2013, and at least one hundred percent in fiscal year 2015 over the baseline data reported for fiscal year 2011.

(2) The department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 may adopt the model plan developed by the department under subsection (1) of this section. If the agency does not adopt the model plan, it must establish and implement a plan consistent with the goals of subsection (1) of this section.

(3) To facilitate the participation of small businesses in the provision of goods and services to the state, including purchases under chapters 39.26 and 43.105 RCW, the director, under the powers granted under this chapter, and the department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 operating under delegated authority granted under this chapter or RCW 28B.10.029, must give technical assistance to small businesses regarding the state bidding process. Such technical assistance shall include providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date and, upon request, holding a debriefing after the contract award to assist the vendor in understanding how to improve his or her responses for future competitive procurements.

(4)(a) The department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 must maintain records of state purchasing contracts awarded to registered small businesses in order to track outcomes and provide accurate, verifiable information

regarding the effects the technical assistance under subsection (3) of this section is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(b) The department may provide assistance to other agencies attempting to maintain records of state purchasing contracts awarded to registered small businesses for the purposes described under (a) of this subsection. [2012 c 224 § 26; 2011 c 358 § 2.]

Effective date—2012 c 224: See RCW 39.26.900.

Findings—Intent—2011 c 358: "The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that small businesses have a fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state. The legislature recognizes the need to increase accountability for the state's procurement and contracting practices. The legislature, therefore, intends to encourage all state agencies to maintain records of state purchasing contracts awarded to registered small businesses. The legislature further recognizes that access to a modernized system that categorizes a state business by such factors as its type and size, is an essential tool for receiving accurate and verifiable information regarding the effects any technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state." [2011 c 358 § 1.]

43.19.727 Small businesses—Effects of technical assistance—Reports—Web-based information system.

(1) By November 15, 2013, and November 15th every two years thereafter, the department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 shall submit a report to the appropriate committees of the legislature providing verifiable information regarding the effects the technical assistance under RCW 43.19.725(3) is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(2) By December 31, 2013, the department, the department of transportation, and institutions of higher education as defined in RCW 28B.10.016 must use the web-based information system created under subsection (3)(a) of this section to capture the data required under subsection (3)(a) of this section.

(3)(a) The department, in consultation with the department of transportation and the department of commerce, must develop and implement a web-based information system. The web-based information system must be used to capture data, track outcomes, and provide accurate and verifiable information regarding the effects the technical assistance under RCW 43.19.725(3) is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state. Such measurable data shall include, but not be limited to: (i) The number of registered small businesses that have been awarded state procurement contracts, (ii) the percentage of total state dollars spent for goods and services purchased from registered small businesses, and (iii) the number of registered small businesses that have bid on but were not awarded state purchasing contracts.

(b) By September 1, 2012, the department, in collaboration with the department of transportation, shall submit a report to the appropriate committees of the legislature providing any recommendations for needed legislation to improve the collection of data required under (a) of this subsection.

(c) By December 31, 2013, the department must make the web-based information system available to all state purchasing agencies.

(d) The department may also make the web-based information system available to other agencies that would like to use the system for the purposes of chapter 358, Laws of 2011. [2012 c 224 § 27; 2011 c 358 § 3.]

Effective date—2012 c 224: See RCW 39.26.900.

Findings—Intent—2011 c 358: See note following RCW 43.19.725.

43.19.733 Requirement to utilize print management contracts—Exemptions. (1) The department shall broker print management contracts for state agencies that are required to utilize print management contracts under this section.

(2) The department is authorized to broker print management contracts for other state agencies that choose to utilize these services.

(3) Except as provided under subsection (6) of this section, all state agencies with total annual average full-time equivalent staff that exceeds one thousand as determined by the office of financial management shall utilize print management services brokered by the department, as follows:

(a) Any agency with a copier and multifunctional device contract that is set to expire on or before December 31, 2011, may opt to:

(i) Renew the copier and multifunctional device contract; or

(ii) Enter a print management contract;

(b) Any agency with a copier and multifunctional device contract that is set to expire on or after January 1, 2012, shall begin planning for the transition to a print management contract six months prior to the expiration date of the contract. Upon expiration of the copier and multifunctional device contract, the agency shall utilize a print management contract; and

(c) Any agency with a copier and multifunctional device contract that is terminated on or after January 1, 2012, shall enter a print management contract.

(4) Until December 31, 2016, for each agency transitioning from a copier and multifunctional device contract to a print management contract, the print management contract should result in savings in comparison with the prior copier and multifunctional device contract.

(5) If an agency has more full-time equivalent employees than it had when it entered its most recently completed print management contract, the cost of a new print management contract may exceed the cost of the most recently completed print management contract.

(6) The director of financial management may exempt a state agency, or a program within a state agency, from the requirements of this section if the director deems it unfeasible or the department and agency could not reasonably reach an agreement regarding print management. [2011 1st sp.s. c 43 § 308.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.736 Print shop services—Bid solicitations—Confidential information. (1) State agencies, boards, commissions, and institutions of higher education requiring the services of a print shop may use public printing services provided by the department. If a print job is put out for bid, the department must be included in the bid solicitation. All solicitations must be posted on the state's common vendor registration and bid notification system and results provided to the department. All bid specifications must encourage the use of recycled paper and biodegradable ink must be used if feasible for the print job.

(2)(a) Except as provided in (b) of this subsection, the department shall print all agency materials that contain sensitive or personally identifiable information not publicly available.

(b) If it is more economically feasible to contract with a private vendor for the printing of agency materials that contain sensitive or personally identifiable information, the department shall require the vendor to enter into a confidentiality agreement with the department to protect the information that is provided as part of the print job. [2011 1st sp.s. c 43 § 309.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.739 Reducing costs—Agencies to consult with department. For every printing job and binding job ordered by a state agency, the agency shall consult with the department on how to choose more economic and efficient options to reduce costs. [2011 1st sp.s. c 43 § 311.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.742 Agency management of print operations—Department rules and guidelines. To improve the efficiency and minimize the costs of agency-based printing, the department shall establish rules and guidelines for all agencies to use in managing their printing operations, including both agency-based printing and those jobs that require the services of a print shop, as based on the successes of implementation of existing print management programs in state agencies. At a minimum, the rules and guidelines must implement managed print strategies to track, manage, and reduce agency-based printing. [2011 1st sp.s. c 43 § 312.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.745 Agency use of envelopes—Standardization. (1) The department shall consult with the office of financial management and state agencies to more efficiently manage the use of envelopes by standardizing them to the extent feasible given the business needs of state agencies.

(2) All state agencies with total annual average full-time equivalent staff that exceeds five hundred as determined by the office of financial management shall cooperate with the department in efforts to standardize envelopes under subsection (1) of this section. In the event that an agency is updating a mailing, the agency shall transition to an envelope recom-

mended by the department, unless the office of financial management considers the change unfeasible.

(3) State agencies with five hundred total annual average full-time equivalent staff or less, as determined by the office of financial management, are encouraged to cooperate with the office to standardize envelopes under this section. [2011 1st sp.s. c 43 § 314.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.748 Public printing for state agencies and municipal corporations—Exceptions to in-state requirements. All printing, binding, and stationery work done for any state agency, county, city, town, port district, or school district in this state shall be done within the state, and all proposals, requests, or invitations to submit bids, prices, or contracts thereon, and all contracts for such work, shall so stipulate: PROVIDED, That whenever it is established that any such work cannot be executed within the state, or that the lowest charge for which it can be procured within the state, exceeds the charge usually and customarily made to private individuals and corporations for work of similar character and quality, or that all bids for the work or any part thereof are excessive and not reasonably competitive, the officers of any such public corporation may have the work done outside the state. [1999 c 365 § 1; 1965 c 8 § 43.78.130. Prior: 1919 c 80 § 1; RRS § 10335. Formerly RCW 43.78.130.]

43.19.751 Public printing for state agencies and municipal corporations—Allowance of claims. No bill or claim for any such work shall be allowed by any officer of a state agency or public corporation or be paid out of its funds, unless it appears that the work was executed within the state or that the execution thereof within the state could not have been procured, or procured at reasonable and competitive rates, and no action shall be maintained against such corporation or its officers upon any contract for such work unless it is alleged and proved that the work was done within the state or that the bids received therefor were unreasonable or not truly competitive. [1999 c 365 § 2; 1965 c 8 § 43.78.140. Prior: 1919 c 80 § 2; RRS § 10336. Formerly RCW 43.78.140.]

43.19.754 Public printing for state agencies and municipal corporations—Contracts for out-of-state work. All contracts for such work to be done outside the state shall require that it be executed under conditions of employment which shall substantially conform to the laws of this state respecting hours of labor, the minimum wage scale, and the rules and regulations of the department of labor and industries regarding conditions of employment, hours of labor, and minimum wages, and shall be favorably comparable to the labor standards and practices of the lowest competitor within the state, and the violation of any such provision of any contract shall be ground for cancellation thereof. [1994 c 164 § 12; 1973 1st ex.s. c 154 § 86; 1965 c 8 § 43.78.150. Prior: 1953 c 287 § 1; 1919 c 80 § 3; RRS § 10337. Formerly RCW 43.78.150.]

Additional notes found at www.leg.wa.gov

43.19.757 Public printing for state agencies and municipal corporations—Quality and workmanship requirements. Nothing in RCW 43.19.748, 43.19.751, and 43.19.754 shall be construed as requiring any public official to accept any such work of inferior quality or workmanship. [2015 c 225 § 70; 1965 c 8 § 43.78.160. Prior: 1919 c 80 § 4; RRS § 10338. Formerly RCW 43.78.160.]

43.19.760 Risk management—Principles. It is the policy of the state for the management of risks to which it is exposed to apply the following principles consistently in a state program of risk management:

- (1) To identify those liability and property risks which may have a significant economic impact on the state;
- (2) To evaluate risk in terms of the state's ability to fund potential loss rather than the ability of an individual agency to fund potential loss;
- (3) To eliminate or improve conditions and practices which contribute to loss whenever practical;
- (4) To assume risks to the maximum extent practical;
- (5) To provide flexibility within the state program to meet the unique requirements of any state agency for insurance coverage or service;
- (6) To purchase commercial insurance:
 - (a) When the size and nature of the potential loss make it in the best interest of the state to purchase commercial insurance; or
 - (b) When the fiduciary of encumbered property insists on commercial insurance; or
 - (c) When the interest protected is not a state interest and an insurance company is desirable as an intermediary; or
 - (d) When services provided by an insurance company are considered necessary; or
 - (e) When services or coverages provided by an insurance company are cost-effective; or
 - (f) When otherwise required by statute; and
- (7) To develop plans for the management and protection of the revenues and assets of the state. [1985 c 188 § 2; 1977 ex.s. c 270 § 1. Formerly RCW 43.41.280, 43.19.19361.]

Intent—2002 c 332: "It is the intent of the legislature that state risk management should have increased visibility at a policy level in state government. This increased visibility can best be accomplished by the transfer of the statewide risk management function from the department of general administration to the office of financial management. The legislature intends that this transfer will result in increasing visibility for the management and funding of statewide risk, increasing executive involvement in risk management issues, and improving statewide risk management accountability." [2002 c 332 § 1.]

Additional notes found at www.leg.wa.gov

43.19.763 Risk management—Definitions. As used in chapter 43, Laws of 2011 1st sp. sess.:

- (1) "Department" means the department of enterprise services;
- (2) "Director" means the director of enterprise services;
- (3) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss; and
- (4) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or

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part from funds appropriated by the legislature. [2011 1st sp.s. c 43 § 501; 1977 ex.s. c 270 § 3. Formerly RCW 43.41.290, 43.19.19363.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—2002 c 332: See note following RCW 43.19.760.

43.19.766 Risk management—Office created—Powers and duties. There is hereby created an office of risk management within the department of enterprise services. The director shall implement the risk management policy in RCW 43.19.760 through the office of risk management. The director shall appoint a risk manager to supervise the office of risk management. The office of risk management shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss. [2011 1st sp.s. c 43 § 502; 2002 c 332 § 7; 1998 c 245 § 55; 1987 c 505 § 25; 1985 c 188 § 3; 1977 ex.s. c 270 § 2. Formerly RCW 43.41.300, 43.19.19362.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2002 c 332: See notes following RCW 43.19.760.

43.19.769 Risk management—Procurement of insurance and bonds. As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the office of risk management periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the office of risk management prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the risk management administration account which shall be reimbursed by the agency or agencies for which procurement is made. [2011 1st sp.s. c 43 § 503; 2002 c 332 § 5; 1998 c 105 § 8; 1985 c 188 § 1; 1977 ex.s. c 270 § 6; 1975 c 40 § 9; 1965 c 8 § 43.19.1935. Prior: 1959 c 178 § 18. Formerly RCW 43.41.310, 43.19.1935.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2002 c 332: See notes following RCW 43.19.760.

Powers and duties of director of enterprise services as to official bonds: RCW 43.19.784.

Additional notes found at www.leg.wa.gov

43.19.772 Risk management—Procurement of insurance for municipalities. The director, through the office of risk management, may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington. [2011 1st sp.s. c 43 § 504; 2002 c 332 § 6; 1985 c 188 § 5. Formerly RCW 43.41.320, 43.19.1936.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2002 c 332: See notes following RCW 43.19.760.

43.19.775 Risk management—Enforcement of bonds under RCW 39.59.010. The director, through the office of risk management, shall receive and enforce bonds posted pursuant to *RCW 39.59.010 (3) and (4). [2011 1st sp.s. c 43 § 505; 2002 c 332 § 8; 1988 c 281 § 6. Formerly RCW 43.41.330, 43.19.19367.]

***Reviser's note:** RCW 39.59.010 was amended by 2016 c 152 § 9, deleting subsections (3) and (4).

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2002 c 332: See notes following RCW 43.19.760.

43.19.778 Risk management—Liability account—Actuarial studies. The department shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account. [2011 1st sp.s. c 43 § 506; 2002 c 332 § 9; 1989 c 419 § 11. Formerly RCW 43.41.340, 43.19.19369.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2002 c 332: See notes following RCW 43.19.760.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Liability account created: RCW 4.92.130.

43.19.781 Risk management—Safety and loss control program. (1) The office of risk management shall establish a coordinated safety and loss control program to reduce liability exposure, safeguard state assets, and reduce costs associated with state liability and property losses.

(2) State agencies shall provide top management support and commitment to safety and loss control, and develop awareness through education, training, and information sharing.

(3) The office of risk management shall develop and maintain centralized loss history information for the purpose of identifying and analyzing risk exposures. Loss history information shall be privileged and confidential and reported only to appropriate agencies.

(4) The office of risk management shall develop methods of statistically monitoring agency and statewide effectiveness in controlling losses.

(5) The office of risk management will routinely review agency loss control programs as appropriate to suggest

improvements, and observe and recognize successful safety policies and procedures.

(6) The office of risk management shall provide direct assistance to smaller state agencies in technical aspects of proper safety and loss control procedures, upon request. [1989 c 419 § 6. Formerly RCW 43.41.350, 43.19.19368.]

Intent—2002 c 332: See note following RCW 43.19.760.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

43.19.782 Loss prevention review team—Appointment—Duties—Rules—Annual report. (1) In consultation with the department and upon delegation, a state agency shall appoint a loss prevention review team when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency except when the death, injury, or substantial loss is already being investigated by another federal or state agency, or by the affected state agency, pursuant to the federal or state agency requirements. Any review conducted by another agency or under other requirements must contain elements of subsection (3) of this section and must comply with RCW 43.19.783 to the extent RCW 43.19.783 does not conflict with statutes or rules governing those reviews. The department may also direct a state agency to conduct a loss prevention review after consultation with the affected agency as to the purpose, scope, necessary resources, and intended outcomes of the loss prevention review. The department may provide guidance to the state agency conducting the loss prevention review as requested by the state agency.

(2) A loss prevention review team shall consist of at least three persons, and may include independent consultants, contractors, or state employees, but it shall not include any person directly involved in the loss or risk of loss giving rise to the review, nor any person with testimonial knowledge of the incident to be reviewed. At least one member of the review team shall have expertise relevant to the matter under review, but no more than half of the review team members may be employees of the affected agency.

(3) The loss prevention review team shall review the death, serious injury, or other incident and the circumstances surrounding it, evaluate its causes, and recommend steps to reduce the risk of such incidents occurring in the future. The loss prevention review team shall accomplish these tasks by reviewing relevant documents and interviewing persons with relevant knowledge. The loss prevention review team must submit a report in writing to the director and the head of the state agency involved in the loss or risk of loss. The report must include the teams' findings, analyze the causes and contributing factors, analyze future risk, include methods that the agency will use to address and mitigate the risks identified, which may include changes to policies or procedures, and any legislative recommendation necessary to address and carry out the risk treatment strategies identified in the subject report and include the manner in which the agency will measure the effectiveness of its changes. The final report shall not disclose the contents of any documents required by law or regulation to be kept private or confidential, or that are subject to legal privilege or exemption.

(4) The director may develop and enact rules to implement the provisions of this chapter that apply to all state agency loss prevention review teams. State agencies must notify the department immediately upon becoming aware of a death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the state agency.

(5) All state agencies shall provide the loss prevention review team ready access to relevant documents in their possession and ready access to their employees.

(6) The director shall submit an annual report to the legislature identifying the reviews conducted in the past year, providing appropriate metrics on effectiveness and efficiency of the loss prevention review team and programs, and summarizing any determinations of trends in incidents such as reductions or increases in the frequency or magnitude of losses and innovative approaches to mitigating risks identified. [2017 c 318 § 2; 2011 1st sp.s. c 43 § 508; 2002 c 333 § 2. Formerly RCW 43.41.370.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—2002 c 333: "The legislature intends that when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency, a loss prevention review shall be conducted. The legislature recognizes the tension inherent in a loss prevention review and the need to balance the prevention of harm to the public with state agencies' accountability to the public. The legislature intends to minimize this tension and to foster open and frank discussions by granting members of the loss prevention review teams protection from having to testify, and by declaring a general rule that the work product of these teams is inadmissible in civil actions or administrative proceedings." [2002 c 333 § 1.]

43.19.783 Loss prevention review team—Final report—Use of report and testimony limited. (1) The final report from the state agency's loss prevention review team to the director shall be made public by the director promptly after review, and shall be subject to public disclosure. The final report shall be subject to discovery in a civil or administrative proceeding. However, the final report shall not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to subsection (2) of this section.

(2) The relevant excerpt or excerpts from the final report of a loss prevention review team may be used to impeach a fact witness in a civil or administrative proceeding only if the party wishing to use the excerpt or excerpts from the report first shows the court by clear and convincing evidence that the witness, in testimony provided in deposition or at trial in the present proceeding, has contradicted his or her previous statements to the loss prevention review team on an issue of fact material to the present proceeding. In that case, the party may use only the excerpt or excerpts necessary to demonstrate the contradiction. This section shall not be interpreted as expanding the scope of material that may be used to impeach a witness.

(3) No member of a loss prevention review team may be examined in a civil or administrative proceeding as to (a) the work of the loss prevention review team, (b) the incident under review, (c) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the loss prevention review team or the incident under review, or (d) the statements, deliberations, thoughts, analyses, or

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impressions of any other member of the loss prevention review team, or any person who provided information to it, relating to the work of the loss prevention review team or the incident under review.

(4) Any document that exists prior to the appointment of a loss prevention review team, or that is created independently of such a team, does not become inadmissible merely because it is reviewed or used by the loss prevention review team. A person does not become unavailable as a witness merely because the person has been interviewed by or has provided a statement to a loss prevention review team. However, if called as a witness, the person may not be examined regarding the person's interactions with the loss prevention review team, including without limitation whether the loss prevention review team interviewed the person, what questions the loss prevention review team asked, and what answers the person provided to the loss prevention review team. This section shall not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(5) Documents prepared by or for the loss prevention review team are inadmissible and may not be used in a civil or administrative proceeding, except that excerpts may be used to impeach the credibility of a witness under the same circumstances that excerpts of the final report may be used pursuant to subsection (2) of this section.

(6) The restrictions set forth in this section shall not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with the death, injury, or other incident reviewed by the loss prevention review team.

(7) Nothing in RCW 43.19.782 or this section is intended to limit the scope of a legislative inquiry into or review of an incident that is the subject of a loss prevention review.

(8) Nothing in RCW 43.19.782 or in this section affects chapter 70.41 RCW and application of that chapter to state-owned or managed hospitals licensed under chapter 70.41 RCW. [2017 c 318 § 3; 2011 1st sp.s. c 43 § 509; 2002 c 333 § 3. Formerly RCW 43.41.380.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—2002 c 333: See note following RCW 43.19.782.

43.19.784 Bonds of state officers and employees—Fixing amount—Additional bonds—Exemptions—Duties of director. The director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in his or her judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his or her judgment their powers and duties are such as not to require a bond. [2011 1st sp.s. c 43 § 507; 2009 c 549 § 5121; 1975 c 40 § 13. Formerly RCW 43.41.360, 43.19.540.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—2002 c 332: See note following RCW 43.19.760.

43.19.800 Transfer of ownership of department-owned vessel—Further requirements. (1) Following the inspection required under RCW 43.19.1919 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The department may consult with the department of ecology in carrying out the requirements of this subsection (2).

(3) Prior to sale, and unless the vessel has a title or valid marine document, the department is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550. [2021 c 65 § 35; 2013 c 291 § 6.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

43.19.805 Inventory of state land resources—Developing and maintaining—Summaries. The office of financial management shall provide by administrative regulation for the maintenance of an inventory of all state owned or controlled land resources by all state agencies owning or controlling land. That office shall cooperate with the state departments and agencies charged with administering state owned or controlled land resources to assist them in developing and maintaining land resources inventories that will permit their respective inventories to be summarized into meaningful reports for the purposes of providing executive agencies with information for planning, budgeting, and managing state owned or administered land resources and to provide the legislature, its members, committees, and staff with data needed for formulation of public policy.

Such departments or agencies shall maintain and make available such summary inventory information as may be prescribed by the rules of the office of financial management. That office shall give each affected department or agency specific written notice of hearings for consideration, adoption, or modification of such rules. All information submitted to that office under this section are a matter of public record and shall be available from said agency upon request. [1981 c 157 § 5. Formerly RCW 43.41.150.]

43.19.900 Transfer of powers, duties, functions, and assets of department of general administration. (1) The department of general administration is hereby abolished and its powers, duties, and functions are transferred to the department of enterprise services. All references to the director or department of general administration in the Revised Code of Washington shall be construed to mean the director or the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of general administration shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of general administration shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department of general administration shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of general administration shall, on October 1, 2011, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of general administration shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of general administration shall not affect the validity of any act performed before October 1, 2011.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of general administration engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

(7) Unless or until modified by the public employment relations commission pursuant to RCW 41.80.911:

(a) The bargaining units of employees at the department of general administration existing on October 1, 2011, shall be considered appropriate units at the department of enterprise services and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the bargaining units of employees at the department of general administration existing on October 1, 2011, shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election. [2011 1st sp.s. c 43 § 1002.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.901 Transfer of certain powers, duties, functions, and assets of the public printer. (1) The public printer is hereby abolished and its powers, duties, and functions, to the extent provided in chapter 43, Laws of 2011 1st sp. sess., are transferred to the department of enterprise services. All references to the public printer in the Revised Code of Washington shall be construed to mean the director or the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the public printer shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the public printer shall be made available to the department of enterprise services. All funds, credits, or other assets held by the public printer shall be assigned to the department of enterprise services.

(b) Any appropriations made to the public printer shall, on October 1, 2011, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the public printer shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the public printer shall not affect the validity of any act performed before October 1, 2011.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the public printer engaged in performing the powers, functions, and duties transferred to the department of enterprise services are transferred to the department of enterprise services.

(a) The commercial agreement between the graphic communications conference of the international brotherhood of teamsters, local 767M and the department of printing-binding that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not

be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to employees in positions formerly covered under the expired commercial agreement.

(b) The commercial agreement between the graphic communications conference of the international brotherhood of teamsters, local 767M and the department of printing-litho that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to the employees in positions formerly covered under the expired commercial agreement.

(c) The typographical contract between the communications workers of America, the newspaper guild, local 37082, and the department of printing-typographical that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to the employees in positions formerly covered under the expired typographical contract.

(d) All other employees of the public printer not covered by the contracts and agreements specified in (a) through (c) of this subsection shall be exempt from chapter 41.06 RCW until October 1, 2011, at which time these employees shall be subject to chapter 41.06 RCW, unless otherwise deemed exempt in accordance with that chapter.

(7) Unless or until modified by the public employment relations commission pursuant to RCW 41.80.911:

(a) The bargaining units of printing craft employees existing on October 1, 2011, shall be considered an appropriate unit at the department of enterprise services and will be so certified by the public employment relations commission; and

(b) The exclusive bargaining representatives recognized as representing the bargaining units of printing craft employees existing on October 1, 2011, shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election. [2011 1st sp.s. c 43 § 1003.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.902 Transfer of certain powers, duties, functions, and assets of the department of information services. (1) The powers, duties, and functions of the department of information services as set forth in RCW *43.19.791, **43.19.794, and ***section 614 of this act are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise

services. All funds, credits, or other assets held by the department of information services in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of information services for carrying out the powers, functions, and duties transferred shall, on October 1, 2011, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of information services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before October 1, 2011.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of information services engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

(7) Unless or until modified by the public employment relations commission pursuant to RCW 41.80.911:

(a) The portions of the bargaining units of employees at the department of information services existing on October 1, 2011, shall be considered appropriate units at the department of enterprise services and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of information services existing on October 1, 2011, shall continue as the exclusive bargaining representative of the transferred bargaining units without the necessity of an election. [2011 1st sp.s. c 43 § 1004.]

Reviser's note: *(1) RCW 43.19.791 was repealed by 2015 3rd sp.s. c 1 § 506.

** (2) RCW 43.19.794 was repealed by 2019 c 132 § 8.

*** (3) The reference to section 614 of this act appears to be erroneous. Section 734 of this act, recodified as RCW 43.19.797, was apparently intended. RCW 43.19.797 was subsequently recodified as RCW 39.26.235 pursuant to 2012 c 224 § 28, effective January 1, 2013.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.903 Transfer of certain powers, duties, functions, and assets of the department of personnel. (1) Those powers, duties, and functions of the department of personnel being transferred to the department of enterprise services as set forth in Part IV, chapter 43, Laws of 2011 1st sp. sess. are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of personnel pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of personnel in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department of personnel in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of personnel for carrying out the powers, functions, and duties transferred shall, on October 1, 2011, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of personnel pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of personnel shall not affect the validity of any act performed before October 1, 2011.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of personnel engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law. [2011 1st sp.s. c 43 § 1005.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19.904 Transfer of certain powers, duties, functions, and assets of the office of financial management. (1)

The powers, duties, and functions of the office of financial management as set forth in Part V, chapter 43, Laws of 2011 1st sp. sess. are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of financial management pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of financial management in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the office of financial management in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the office of financial management for carrying out the powers, functions, and duties transferred shall, on October 1, 2011, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the office of financial management pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the office of financial management shall not affect the validity of any act performed before October 1, 2011.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the office of financial management engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law. [2011 1st sp.s. c 43 § 1007.]

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Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Chapter 43.19A RCW
RECYCLED PRODUCT PROCUREMENT

Sections

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- 43.19A.020 Recycled product purchasing—Federal product standards.
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- 43.19A.030 Local government duties.
- 43.19A.040 Local government adoption of preferential purchase policy optional.
- 43.19A.050 Strategy for state agency procurement.
- 43.19A.060 Database of products and vendors.
- 43.19A.070 Education program—Product substitution list—Model procurement guidelines.
- 43.19A.080 Bid notification to state recycled content requirements.
- 43.19A.110 Local road projects—Compost products.
- 43.19A.120 Use of compost products in projects.
- 43.19A.130 Local governments encouraged to enter compost product purchasing agreements.
- 43.19A.140 Use of biochar in public works projects.
- 43.19A.150 Cities and counties required to adopt a compost procurement ordinance—Report.
- 43.19A.160 Use of compost products.

Recycled material products purchase: RCW 39.26.255.

43.19A.005 Purpose. It is the purpose of this chapter to:

(1) Substantially increase the procurement of recycled content products by all local and state governmental agencies and public schools, and provide a model to encourage a comparable commitment by Washington state citizens and businesses in their purchasing practices;

(2) Target government procurement policies and goals toward those recycled products for which there are significant market development needs or that may substantially contribute to solutions to the state's waste management problem;

(3) Provide standards for recycled products for use in procurement programs by all governmental agencies;

(4) Provide the authority for all governmental agencies to adopt preferential purchasing policies for recycled products;

(5) Direct state agencies to develop strategies to increase recycled product purchases, and to provide specific goals for procurement of recycled paper products and organic recovered materials; and

(6) Provide guidance and direction for local governments and other public agencies to develop plans for increasing the procurement of recycled content products. [1991 c 297 § 1.]

43.19A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70A.226 RCW.

(2) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(3) "Department" means the department of enterprise services.

(4) "Director" means the director of the department of enterprise services.

(5) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(6) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(7) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(8) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "Recycled content product" or "recycled product" means a product containing recycled materials.

(13) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(14) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(15) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the Code of Federal Regulations. [2021 c 65 § 36. Prior: 2011 1st sp.s. c 43 § 250; 1992 c 174 § 12; 1991 c 297 § 2.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19A.020 Recycled product purchasing—Federal product standards. (1) The federal product standards, adopted under 42 U.S.C. Sec. 6962(e) as it exists on July 1, 2001, are adopted as the minimum standards for the state of Washington. These standards shall be implemented for at

least the products listed in this subsection, unless the director finds that a different standard would significantly increase recycled product availability or competition.

(a) Organic recovered materials;

(b) Latex paint products;

(c) Products for lower value uses containing recycled plastics;

(d) Retread and remanufactured tires;

(e) Lubricating oils;

(f) Automotive batteries;

(g) Building products and materials;

(h) Panelboard; and

(i) Compost products.

(2) By July 1, 2001, the director shall adopt product standards for strawboard manufactured using as an ingredient straw that is produced as a by-product in the production of cereal grain or turf or grass seed and product standards for products made from strawboard.

(3) The standards required by this section shall be applied to recycled product purchasing by the department, other state agencies, and state postsecondary educational institutions. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards. [2009 c 356 § 3; 2001 c 77 § 1; 1996 c 198 § 1; 1995 c 269 § 1406; 1991 c 297 § 3.]

Additional notes found at www.leg.wa.gov

43.19A.022 Recycled content paper for printers and copiers—Purchasing priority. (1) All state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers. State agencies are encouraged to give priority to purchasing from companies that produce paper in facilities that generate energy from a renewable energy source.

(2) State agencies that utilize office printers and copiers that, after reasonable attempts, cannot be calibrated to utilize such paper referenced in subsection (1) of this section, must for those models of equipment:

(a) Purchase paper at the highest recycled content that can be utilized efficiently by the copier or printer;

(b) At the time of lease renewal or at the end of the life cycle, either lease or purchase a model that will efficiently utilize one hundred percent recycled content white cut sheet bond paper.

(3) Printed projects that require the use of high volume production inserters or high-speed digital devices, such as those used by the department of enterprise services, are not required to meet the one hundred percent recycled content white cut sheet bond paper standard, but must utilize the highest recycled content that can be utilized efficiently by such equipment and not impede the business of agencies.

(4) The department of enterprise services shall identify for use by agencies one hundred percent recycled paper products that process efficiently through high-speed production equipment and do not impede the business of agencies. [2015 c 225 § 71; 2011 1st sp.s. c 43 § 251; 2009 c 356 § 2.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.19A.030 Local government duties. (1) By January 1, 1993, each local government shall review its existing procurement policies and specifications to determine whether recycled products are intentionally or unintentionally excluded. The policies and specifications shall be revised to include such products unless a recycled content product does not meet an established performance standard of the agency.

(2) By fiscal year 1994, each local government shall adopt a minimum purchasing goal for recycled content as a percentage of the total dollar value of supplies purchased. To assist in achieving this goal each local government shall adopt a strategy by January 1, 1993, and shall submit a description of the strategy to the department. All public agencies shall respond to requests for information from the department for the purpose of its reporting requirements under this section.

(3) Each local government shall designate a procurement officer who shall serve as the primary contact with the department for compliance with the requirements of this chapter.

(4) This section shall apply only to local governments with expenditures for supplies exceeding five hundred thousand dollars for fiscal year 1989. Expenditures for capital goods and for electricity, water, or gas for resale shall not be considered a supply expenditure. [1998 c 245 § 57; 1991 c 297 § 4.]

43.19A.040 Local government adoption of preferential purchase policy optional. (1) Each local government shall consider the adoption of policies, rules, or ordinances to provide for the preferential purchase of recycled content products. Any local government may adopt the preferential purchasing policy of the department of enterprise services, or portions of such policy, or another policy that provides a preference for recycled content products.

(2) The department of enterprise services shall prepare one or more model recycled content preferential purchase policies suitable for adoption by local governments. The model policy shall be widely distributed and provided through the technical assistance and workshops under RCW 43.19A.070.

(3) A local government that is not subject to the purchasing authority of the department of enterprise services, and that adopts the preferential purchase policy or rules of the department, shall not be limited by the percentage price preference included in such policy or rules. [2015 c 225 § 72; 1991 c 297 § 6.]

43.19A.050 Strategy for state agency procurement. The department shall prepare a strategy to increase purchases of recycled-content products by the department and all state agencies, including higher education institutions. The strategy shall include purchases from public works contracts. The strategy shall address the purchase of plastic products, retread and remanufactured tires, motor vehicle lubricants, latex paint, and lead acid batteries having recycled content. In addition, the strategy shall incorporate actions to achieve the following purchase level goals of compost products:

Compost products as a percentage of the total dollar amount on an annual basis:

- (1) At least forty percent by 1996;
- (2) At least sixty percent by 1997;

(3) At least eighty percent by 1998. [2009 c 356 § 4; 1996 c 198 § 2; 1991 c 297 § 7.]

43.19A.060 Database of products and vendors. (1) The department shall develop a database of available products with recycled-content products, and vendors supplying such products. The database shall incorporate information regarding product consistency with the content standards adopted under RCW 43.19A.020. The database shall incorporate information developed through state and local government procurement of recycled-content products.

(2) By December 1, 1992, the department shall report to the appropriate standing committees of the legislature on the cost of making the database accessible to all state and local governments and to the private sector.

(3) The department shall compile information on purchases made by the department or pursuant to the department's purchasing authority, and information provided by local governments, regarding:

- (a) The percentage of recycled content and, if known, the amount of postconsumer waste in the products purchased;
- (b) Price;
- (c) Agency experience with the performance of recycled products and the supplier under the terms of the purchase; and
- (d) Any other information deemed appropriate by the department. [1991 c 297 § 8.]

43.19A.070 Education program—Product substitution list—Model procurement guidelines. (1) The department shall implement an education program to encourage maximum procurement of recycled products by state and local government entities. The program shall include at least the following:

- (a) Technical assistance to all state and local governments and their designated procurement officers on the requirements of this chapter, including preparation of model purchase contracts, the preparation of procurement plans, and the availability of recycled products;
- (b) Two or more workshops annually in which all state and local government entities are invited;
- (c) Information on intergovernmental agreements to facilitate procurement of recycled products.

(2) The director shall, in consultation with the department of ecology, make available to the public, local jurisdictions, and the private sector, a comprehensive list of substitutes for extremely hazardous, hazardous, toxic, and nonrecyclable products, and disposable products intended for a single use. The department and all state agencies exercising the purchasing authorities of the department shall include the substitute products on bid notifications, except where the department allows an exception based upon product availability, price, suitability for intended use, or similar reasons.

(3) The department shall prepare model procurement guidelines for use by local governments. [1991 c 297 § 9.]

43.19A.080 Bid notification to state recycled content requirements. A notification regarding a state or local government's intent to procure products with recycled content must be prominently displayed in the procurement solicitation or invitation to bid including:

(1) A description of the postconsumer waste content or recycled content requirements; and

(2) A description of the agency's recycled content preference program. [1991 c 297 § 11.]

43.19A.110 Local road projects—Compost products.

(1) Each county and city required to prepare a strategy under RCW 43.19A.030 shall adopt specifications for compost products to be used in road projects. The specifications developed by the department of transportation under RCW 47.28.220 may be adopted by the city or county in lieu of developing specifications.

(2) After July 1, 1992, any contract awarded in whole or in part for applying soils, soil covers, or soil amendments to road rights-of-way shall specify that compost materials be purchased in accordance with the following schedule:

(a) For the period July 1, 1992, through June 30, 1994, at least twenty-five percent of the total dollar amount of purchases by the city or county;

(b) On and after July 1, 1994, at least fifty percent of the annual total dollar amount of purchases by the city or county.

(3) The city or county may depart from the schedule in subsection (2) of this section where it determines that no suitable product is available at a reasonable price. [1991 c 297 § 17.]

43.19A.120 Use of compost products in projects. (1)

When planning government-funded projects or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether compost products can be utilized in the project.

(2) If compost products can be utilized in the project, the state agency or local government must use compost products, except as follows:

(a) A state agency or local government is not required to use compost products if:

(i) Compost products are not available within a reasonable period of time;

(ii) Compost products that are available do not comply with existing purchasing standards;

(iii) Compost products that are available do not comply with federal or state health, quality, and safety standards; and

(iv) Compost purchase prices are not reasonable or competitive; and

(b) A state agency is also not required to use compost products in a project if:

(i) The total cost of using compost is financially prohibitive;

(ii) Application of compost will have detrimental impacts on the physical characteristics and nutrient condition of the soil as it is used for a specific crop;

(iii) The project consists of growing trees in a greenhouse setting, including seed orchard greenhouses; or

(iv) The compost products that are available have not been certified as being free of crop-specific pests and pathogens, including pests and pathogens that could result in the denial of phytosanitary permits for shipping seedlings.

(3) Before the transportation or application of compost products under this section, composting facilities, state agencies, and local governments must ensure compliance with

department of agriculture pest control regulations provided in chapter 16-470 WAC.

(4) State agencies and local governments are encouraged to give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards adopted by rule by the department of ecology. [2020 c 290 § 2.]

Findings—Legislative declaration—2020 c 290: "The legislature finds and declares that local compost manufacturing plays a critical role in our state's solid waste infrastructure. Composting benefits Washington agencies, counties, cities, businesses, and residents by diverting hundreds of thousands of tons of organic waste from landfills, reducing solid waste costs, and lowering carbon emissions. The legislature finds that a growing number of local governments are recognizing the benefits of composting programs and offering compost collection to their residents and businesses. The diversion of food waste from landfills to compost processors remains critical for state and local governments to meet their ambitious diversion goals.

The legislature also finds that composting is a strong carbon reduction industry for Washington, as the application of compost to soil systems permits increased carbon sequestration. Compost can also replace synthetic chemical fertilizer, prevent topsoil erosion, and filter stormwater on green infrastructure projects such as rain gardens and retention ponds.

The legislature declares that state and local governments should lead by example by purchasing and using local compost that meets state standards and by encouraging farming operations to do so as well." [2020 c 290 § 1.]

43.19A.130 Local governments encouraged to enter compost product purchasing agreements. (1) Each local government that provides a residential composting service is encouraged to enter into a purchasing agreement with its compost processor to buy back finished compost products for use in government projects or on government land. The local government is encouraged to purchase an amount of finished compost product that is equal to or greater than fifty percent of the amount of organic residuals it delivered to the compost processor. Local governments may enter into collective purchasing agreements if doing so is more cost-effective or efficient. The compost processor should offer a purchase price that is reasonable and competitive for the specific market.

(2) When purchasing compost products for use in government projects or on government-owned land, local governments are encouraged to purchase compost with at least eight percent food waste, or an amount of food waste that is commensurate with that in the local jurisdiction's curbside collection program. [2020 c 290 § 3.]

Findings—Legislative declaration—2020 c 290: See note following RCW 43.19A.120.

43.19A.140 Use of biochar in public works projects.

(1) When planning government-funded projects that are public works, or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether biochar products can be utilized in the project.

(2) If biochar products can be utilized in the project, the state agency or local government must use biochar products, except as follows:

(a) A state agency or local government is not required to use biochar products if:

(i) Biochar products are not available within a reasonable period of time;

(ii) Biochar products that are available do not comply with existing purchasing standards;

(iii) Biochar products that are available do not comply with federal or state health, quality, and safety standards; or
 (iv) Biochar purchase prices are not reasonable or competitive; and

(b) A state agency is not required to use biochar products in a project if:

(i) The total cost of using biochar is financially prohibitive;

(ii) Application of biochar will have detrimental impacts on the physical characteristics and nutrient condition of the soil as it is used for a specific crop; or

(iii) The project consists of growing trees in a greenhouse setting, including seed orchard greenhouses.

(3) For the purposes of this section, "biochar" means a carbon-rich material produced during the pyrolysis process or solid material obtained from the thermochemical conversion of biomass in an oxygen-limited environment, derived from biomass waste materials including forest, agricultural, yard, urban wood, food, and biosolid residuals. [2022 c 293 § 1.]

43.19A.150 Cities and counties required to adopt a compost procurement ordinance—Report. (1) By January 1, 2023, the following cities or counties shall adopt a compost procurement ordinance to implement RCW 43.19A.120:

(a) Each city or county with a population greater than 25,000 residents as measured by the office of financial management using the most recent population data available; and

(b) Each city or county in which organic material collection services are provided under chapter 70A.205 RCW.

(2) A city or county that newly exceeds a population of 25,000 residents after January 1, 2023, as measured by the office of financial management, must adopt an ordinance under this subsection no later than 12 months after the office of financial management's determination that the local government's population has exceeded 25,000.

(3) In developing a compost procurement ordinance, each city and county shall plan for the use of compost in the following categories:

(a) Landscaping projects;

(b) Construction and postconstruction soil amendments;

(c) Applications to prevent erosion, filter stormwater runoff, promote vegetation growth, or improve the stability and longevity of roadways; and

(d) Low-impact development and green infrastructure to filter pollutants or keep water on-site, or both.

(4) Each city or county that adopts an ordinance under subsection (1) or (2) of this section must develop strategies to inform residents about the value of compost and how the jurisdiction uses compost in its operations in the jurisdiction's comprehensive solid waste management plan pursuant to RCW 70A.205.045.

(5) By December 31, 2024, and each December 31st of even-numbered years thereafter, each city or county that adopts an ordinance under subsection (1) or (2) of this section must submit a report covering the previous year's compost procurement activities to the department of ecology that contains the following information:

(a) The total tons of organic material diverted throughout the year;

(b) The volume and cost of compost purchased throughout the year; and

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(c) The source or sources of the compost.

(6) Cities and counties that are required to adopt an ordinance under subsection (1) or (2) of this section shall give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards comparable to standards adopted by the department of transportation or adopted by rule by the department of ecology.

(7) Cities and counties may enter into collective purchasing agreements if doing so is more cost-effective or efficient.

(8) Nothing in this section requires a compost processor to:

(a) Enter into a purchasing agreement with a city or county;

(b) Sell finished compost to meet this requirement; or

(c) Accept or process food waste or compostable products. [2022 c 180 § 701.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

43.19A.160 Use of compost products. A contract by a local government or state agency must require the use of compost products to the maximum extent economically feasible to meet the requirements established in RCW 43.19A.120. [2022 c 180 § 703.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Chapter 43.20 RCW STATE BOARD OF HEALTH

Sections

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Sexually transmitted diseases: Chapter 70.24 RCW.

Social and health services, department created: RCW 43.17.010, 43.20A.030.

Vital statistics: Chapter 70.58A RCW.

43.20.025 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commissary" means an approved food establishment where food is stored, prepared, portioned, or packaged for service elsewhere.

(2) "Commissions" means the Washington state commission on African American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, and the governor's office of Indian affairs.

(3) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(4) "Council" means the governor's interagency coordinating council on health disparities, convened according to this chapter.

(5) "Department" means the department of health.

(6) "Health disparities" means the difference in incidence, prevalence, mortality, or burden of disease and other adverse health conditions, including lack of access to proven health care services that exists between specific population groups in Washington state.

(7) "Health impact review" means a review of a legislative or budgetary proposal completed according to the terms of this chapter that determines the extent to which the proposal improves or exacerbates health disparities.

(8) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(9) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(10) "Mobile food unit" means a readily movable food establishment.

(11) "Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment. The local board of health, acting through the local health officer, is the regulatory authority for the activity of a food establishment, except as otherwise provided by law.

(12) "Secretary" means the secretary of health, or the secretary's designee.

(13) "Servicing area" means an operating base location to which a mobile food unit or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(14) "Social determinants of health" means those elements of social structure most closely shown to affect health and illness, including at a minimum, early learning, education, socioeconomic standing, safe housing, gender, incidence of violence, convenient and affordable access to safe opportunities for physical activity, healthy diet, and appropriate health care services.

(15) "State board" means the state board of health created under this chapter. [2019 c 185 § 1; 2006 c 239 § 2; 1989 1st ex.s. c 9 § 208; 1984 c 243 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

43.20.030 State board of health—Members—Chair—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, one of whom is a health official from a federally recognized tribe; an elected city official who is a member of a local health board; an elected county official who is a member of a local health board; a local health officer; and two persons representing the consumers of health care. Before appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chair shall be selected by the governor from among the nine appointed members. The department of health shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2009 c 549 § 5072; 2006 c 238 § 1. Prior: 1984 c 287 § 75; 1984 c 243 § 2; (1993 c 492 § 255 repealed by

1995 c 43 § 16); 1970 ex.s. c 18 § 11; 1965 c 8 § 43.20.030; prior: 1921 c 7 § 56, part; RRS § 10814, part.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.20.035 State board of health—Cooperation with environmental agencies. See RCW 43.70.310.

43.20.050 Powers and duties of state board of health—Rule making—Delegation of authority—Enforcement of rules. (1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules for group A public water systems, as defined in RCW 70A.125.010, necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants;

(b) Adopt rules as necessary for group B public water systems, as defined in RCW 70A.125.010. The rules shall, at a minimum, establish requirements regarding the initial design and construction of a public water system. The state board of health rules may waive some or all requirements for group B public water systems with fewer than five connections;

(c) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains;

(d) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, and cleanliness in public facilities including but not limited to food service establishments, schools, recreational facilities, and transient accommodations;

(e) Adopt rules for the imposition and use of isolation and quarantine;

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(f) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as may best be controlled by universal rule; and

(g) Adopt rules for accessing existing databases for the purposes of performing health related research.

(3) The state board shall adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day.

(4) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(5) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he or she shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state. [2021 c 65 § 37; 2011 c 27 § 1; 2009 c 495 § 1; 2007 c 343 § 11; 1993 c 492 § 489; 1992 c 34 § 4. Prior: 1989 1st ex.s. c 9 § 210; 1989 c 207 § 1; 1985 c 213 § 1; 1979 c 141 § 49; 1967 ex.s. c 102 § 9; 1965 c 8 § 43.20.050; prior: (i) 1901 c 116 § 1; 1891 c 98 § 2; RRS § 6001. (ii) 1921 c 7 § 58; RRS § 10816.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Findings—1993 c 492: "The legislature finds that our health and financial security are jeopardized by our ever increasing demand for health care and by current health insurance and health system practices. Current health system practices encourage public demand for unneeded, ineffective, and sometimes dangerous health treatments. These practices often result in unaffordable cost increases that far exceed ordinary inflation for essential care. Current total health care expenditure rates should be sufficient to provide access to essential health care interventions to all within a reformed, efficient system.

The legislature finds that too many of our state's residents are without health insurance, that each year many individuals and families are forced into poverty because of serious illness, and that many must leave gainful employment to be eligible for publicly funded medical services. Additionally, thousands of citizens are at risk of losing adequate health insurance, have had insurance canceled recently, or cannot afford to renew existing coverage.

The legislature finds that businesses find it difficult to pay for health insurance and remain competitive in a global economy, and that individuals, the poor, and small businesses bear an inequitable health insurance burden.

The legislature finds that persons of color have significantly higher rates of mortality and poor health outcomes, and substantially lower numbers and percentages of persons covered by health insurance than the general population. It is intended that chapter 492, Laws of 1993 make provisions to address the special health care needs of these racial and ethnic populations in order to improve their health status.

The legislature finds that uncontrolled demand and expenditures for health care are eroding the ability of families, businesses, communities, and governments to invest in other enterprises that promote health, maintain independence, and ensure continued economic welfare. Housing, nutrition, education, and the environment are all diminished as we invest ever increasing shares of wealth in health care treatments.

The legislature finds that while immediate steps must be taken, a long-term plan of reform is also needed." [1993 c 492 § 101.]

Intent—1993 c 492: "(1) The legislature intends that state government policy stabilize health services costs, assure access to essential services for all residents, actively address the health care needs of persons of color, improve the public's health, and reduce unwarranted health services costs to preserve the viability of nonhealth care businesses.

(2) The legislature intends that:

(a) Total health services costs be stabilized and kept within rates of increase similar to the rates of personal income growth within a publicly regulated, private marketplace that preserves personal choice;

(b) State residents be enrolled in the certified health plan of their choice that meets state standards regarding affordability, accessibility, cost-effectiveness, and clinical efficaciousness;

(c) State residents be able to choose health services from the full range of health care providers, as defined in RCW 43.72.010(12), in a manner consistent with good health services management, quality assurance, and cost effectiveness;

(d) Individuals and businesses have the option to purchase any health services they may choose in addition to those included in the uniform benefits package or supplemental benefits;

(e) All state residents, businesses, employees, and government participate in payment for health services, with total costs to individuals on a sliding scale based on income to encourage efficient and appropriate utilization of services;

(f) These goals be accomplished within a reformed system using private service providers and facilities in a way that allows consumers to choose among competing plans operating within budget limits and other regulations that promote the public good; and

(g) A policy of coordinating the delivery, purchase, and provision of health services among the federal, state, local, and tribal governments be encouraged and accomplished by chapter 492, Laws of 1993.

(3) Accordingly, the legislature intends that chapter 492, Laws of 1993 provide both early implementation measures and a process for overall reform of the health services system." [1993 c 492 § 102.]

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

Additional notes found at www.leg.wa.gov

43.20.065 On-site sewage system failures and inspections—Rule making. (1) Rules adopted by the state board under RCW 43.20.050(3) regarding failures of on-site sewage systems must:

(a) Give first priority to allowing repair and second priority to allowing replacement of an existing conventional on-site sewage system, consisting of a septic tank and drainfield, with a similar conventional system;

(b) Not impose or allow the imposition of more stringent performance requirements of equivalent on-site sewage systems on private entities than public entities; and

(c) Allow a system to be repaired using the least expensive alternative that meets standards and is likely to provide comparable or better long-term sewage treatment and effluent dispersal outcomes.

(2) Rules adopted by the state board under RCW 43.20.050(3) regarding inspections must:

(a) Require any inspection of an on-site sewage system carried out by a certified professional inspector or public agency to be coordinated with the owner of the on-site sewage system prior to accessing the on-site sewage system;

(b) Require any inspection of an on-site sewage system carried out by a certified professional inspector or responsible public agency to be authorized by the owner of the on-site sewage system prior to accessing the on-site sewage system;

(c) Allow, in cases where an inspection has not been authorized by a property owner, the local health jurisdiction to follow the procedures established for an administrative search warrant in RCW 70A.105.030; and

(d) Forbid local health jurisdictions from requiring private property owners to grant inspection or maintenance easements for on-site sewage systems as a condition of permit issuance for on-site sewage systems that are located on a single property and service a single dwelling unit. [2021 c 65 § 38; 2019 c 21 § 2.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Finding—Intent—2019 c 21: "The legislature finds that properly functioning on-site sewage systems are an important component of the state's wastewater treatment infrastructure. In order to ensure that on-site sewage systems remain a wastewater treatment option that is economically accessible to a wide sector of the state's population, it is the intent of the legislature to ensure that only requirements that are reasonable, appropriately tailored, and necessary are imposed on the installation, operation, maintenance, or repair of on-site sewage systems." [2019 c 21 § 1.]

43.20.100 Biennial report. The state board of health shall report to the governor by July 1st of each even-numbered year including therein suggestions for public health priorities for the following biennium and such legislative action as it deems necessary. [2009 c 518 § 23; 1977 c 75 § 44; 1965 c 8 § 43.20.100. Prior: 1891 c 98 § 11; RRS § 6007.]

43.20.145 Food service rules—Consideration of federal food code—Safety standards for Asian rice-based noodles and Korean rice cakes. (1) The state board shall consider the most recent version of the United States food and drug administration's food code for the purpose of adopting rules for food service.

(2)(a) In considering the adoption of rules for food service, the state board shall consider scientific data regarding time-temperature safety standards for Asian rice-based noodles and Korean rice cakes.

(b) For the purposes of this subsection (2):

(i) "Asian rice-based noodles" means a rice-based pasta that contains rice powder, water, wheat starch, vegetable cooking oil, and optional ingredients to modify the pH or water activity, or to provide a preservative effect. The ingredients do not include products derived from animals. The rice-based pasta is prepared by using a traditional method that includes cooking by steaming at not less than one hundred thirty degrees Fahrenheit, for not less than four minutes.

(ii) "Korean rice cake" means a confection that contains rice powder, salt, sugar, various edible seeds, oil, dried beans, nuts, dried fruits, and dried pumpkin. The ingredients do not include products derived from animals. The confection is prepared by using a traditional method that includes cooking by steaming at not less than two hundred seventy-five degrees Fahrenheit, for not less than five minutes, nor more than fifteen minutes. [2016 sp.s. c 20 § 2; 2003 c 65 § 2.]

Findings—Intent—2016 sp.s. c 20: "(1) The legislature finds that Asian rice-based noodles and Korean rice cakes are cultural foods that possess different time-temperature safety standards from other foods sold for human consumption. The legislature finds that Asian rice-based noodles kept at room temperature are safe for consumption within four hours of the time that the product first comes out of hot holding at temperatures at or above one hundred thirty-five degrees, or when the product has a pH of 4.6 or below, a water activity of 0.85 or below, or has been determined by the department to not be a potentially hazardous food based on formulation and supporting laboratory documentation submitted to the department of health by the manufacturer. Further, the legislature finds that Korean rice cakes are safe for consumption within one day of manufacture.

(2)(a) This act is intended to direct the state board of health to consider new standards for time-temperature requirements of Asian rice-based noo-

dles and Korean rice cakes intended for human consumption. Further, this act is intended to direct the state board of health to consider laws enacted by other states regarding standards for time-temperature and manufacturer package labeling requirements of Asian rice-based noodles and Korean rice cakes.

(b) The legislature does not intend to create a private right of action or claim on the part of any individual, entity, or agency against the state board of health, any contractor of the state board of health, or the department of health." [2016 sp.s. c 20 § 1.]

Intent—2003 c 65: "The United States food and drug administration's food code incorporates the most recent food science and technology. The code is regularly updated in consultation with the states, the scientific community, and the food service industry. The food and drug administration's food code provides consistency for food service regulations, and it serves as a model for many states' food service rules. It is the legislature's intent that the state board of health use the United States food and drug administration's food code as guidance when developing food service rules for this state." [2003 c 65 § 1.]

43.20.148 Mobile food units—Commissary and servicing area requirements. The regulatory authority must approve a request for a mobile food unit to be exempt from state board of health or local health jurisdiction requirements to operate from an approved commissary or servicing area if:

(1) The mobile food unit contains all equipment and utensils needed for complete onboard preparation of an approved menu;

(2) The mobile food unit is protected from environmental contamination when not in use;

(3) The mobile food unit can maintain required food storage temperatures during storage, preparation, service, and transit;

(4) The mobile food unit has a dedicated handwashing sink to allow frequent handwashing at all times;

(5) The mobile food unit has adequate water capacity and warewashing facilities to clean all multiuse utensils used on the mobile food unit at a frequency specified in state board of health rules;

(6) The mobile food unit is able to store tools onboard needed for cleaning and sanitizing;

(7) All food, water, and ice used on the mobile food unit is prepared onboard or otherwise obtained from approved sources;

(8) Wastewater and garbage will be sanitarily removed from the mobile food unit following an approved written plan or by a licensed service provider; and

(9) The local health officer approves the menu and plan of operations for the mobile food unit. [2019 c 185 § 2; 2018 c 167 § 1.]

43.20.149 Mobile food units—Reciprocity—Rule making. (1) Beginning May 1, 2020, a regulatory authority must accept a completed and approved plan review of a mobile food unit from another regulatory authority if:

(a) The applicant has obtained a valid permit to operate the mobile food unit from another regulatory authority; and

(b) The applicant provides the following to the regulatory authority from which the applicant is seeking a permit:

(i) A copy of the current operating permit from the original regulatory authority;

(ii) A copy of the complete approved plan review from the original regulatory authority;

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(iii) The most recent inspection report of the mobile food unit from the original regulatory authority that demonstrates compliance with food safety standards; and

(iv) Any commissary agreements that the applicant was required to maintain under the permit from the original regulatory authority.

(2) Except as provided in (a) and (b) of this subsection, the regulatory authority may not require an applicant to submit any additional documents or inspections to obtain a permit to operate the mobile food unit.

(a) The regulatory authority may require an applicant to submit any restroom agreements the regulatory authority determines are necessary to comply with department and state board regulations.

(b) The regulatory authority may require an applicant to submit additional commissary agreements as required by department and state board regulations unless:

(i) A mobile food unit is exempt from the use of a commissary under RCW 43.20.148; or

(ii) A mobile food unit returns to its approved commissary after each day of service as described in the approved plan.

(3) A regulatory authority granting a permit pursuant to subsection (1) of this section may charge the applicant an annual permit fee, but may not charge a plan review or inspection fee.

(4) The state board must adopt rules to implement this section. [2019 c 185 § 3.]

43.20.175 Violations—Injunctions and legal proceedings authorized. See RCW 43.70.190.

43.20.185 Enforcement of health laws and state or local rules and regulations upon request of local health officer. See RCW 43.70.200.

43.20.215 Right of person to rely on prayer to alleviate ailments not abridged. See RCW 43.70.210.

43.20.230 Water resource planning—Procedures, criteria, technical assistance. Consistent with the water resource planning process of the department of ecology, the department of health shall:

(1) Develop procedures and guidelines relating to water use efficiency, as defined in *section 4(3), chapter 348, Laws of 1989, to be included in the development and approval of cost-efficient water system plans required under RCW 43.20.050;

(2) Develop criteria, with input from technical experts, with the objective of encouraging the cost-effective reuse of greywater and other water recycling practices, consistent with protection of public health and water quality;

(3) Provide advice and technical assistance upon request in the development of water use efficiency plans; and

(4) Provide advice and technical assistance on request for development of model conservation rate structures for public water systems. Subsections (1), (2), and (3) of this section are subject to the availability of funding. [1993 sp.s. c 4 § 9; 1989 c 348 § 12.]

*Reviser's note: 1989 c 348 § 4 was vetoed.

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

Additional notes found at www.leg.wa.gov

43.20.235 Water conservation—Water delivery rate structures. Water purveyors required to develop a water system plan pursuant to RCW 43.20.230 shall evaluate the feasibility of adopting and implementing water delivery rate structures that encourage water conservation. This information shall be included in water system plans submitted to the department of health for approval after July 1, 1993. The department shall evaluate the following:

(1) Rate structures currently used by public water systems in Washington; and

(2) Economic and institutional constraints to implementing conservation rate structures. [1998 c 245 § 58; 1993 sp.s. c 4 § 10.]

Findings—Grazing lands—1993 sp.s. c 4: See RCW 79.13.600.

43.20.240 Public water systems—Complaint process.

(1) The department shall have primary responsibility among state agencies to receive complaints from persons aggrieved by the failure of a public water system. If the remedy to the complaint is not within the jurisdiction of the department, the department shall refer the complaint to the state or local agency that has the appropriate jurisdiction. The department shall take such steps as are necessary to inform other state agencies of their primary responsibility for such complaints and the implementing procedures.

(2) Each county shall designate a contact person to the department for the purpose of receiving and following up on complaint referrals that are within county jurisdiction. In the absence of any such designation, the county health officer shall be responsible for performing this function.

(3) The department and each county shall establish procedures for providing a reasonable response to complaints received from persons aggrieved by the failure of a public water system.

(4) The department and each county shall use all reasonable efforts to assist customers of public water systems in obtaining a dependable supply of water at all times. The availability of resources and the public health significance of the complaint shall be considered when determining what constitutes a reasonable effort.

(5) The department shall, in consultation with local governments, water utilities, water-sewer districts, public utility districts, and other interested parties, develop a booklet or other single document that will provide to members of the public the following information:

(a) A summary of state and local law regarding the obligations of public water systems in providing drinking water supplies to their customers;

(b) A summary of the activities, including planning, rate setting, and compliance, that are to be performed by both local and state agencies;

(c) The rights of customers of public water systems, including identification of agencies or offices to which they may address the most common complaints regarding the failures or inadequacies of public water systems.

This booklet or document shall be available to members of the public no later than January 1, 1991. [2009 c 495 § 2; 1999 c 153 § 56; 1990 c 132 § 3.]

Legislative findings—1990 c 132: "The legislature finds the best interests of the citizens of the state are served if:

(1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;

(2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use planning and public health and safety; and

(3) Existing procedures and processes for water system planning are strengthened and fully implemented by state agencies, local government, and public water systems." [1990 c 132 § 1.]

Additional notes found at www.leg.wa.gov

43.20.250 Review of water system plan—Time limitations—Notice of rejection of plan or extension of timeline.

For any new or revised water system plan submitted for review under this chapter, the department shall review and either approve, conditionally approve, reject, or request amendments within ninety days of the receipt of the submission of the plan. The department may extend this ninety-day time limitation for new submittals by up to an additional ninety days if insufficient time exists to adequately review the general comprehensive plan. For rejections of plans or extensions of the timeline, the department shall provide in writing, to the person or entity submitting the plan, the reason for such action. In addition, the person or entity submitting the plan and the department may mutually agree to an extension of the deadlines contained in this section. [2002 c 161 § 1.]

43.20.260 Review of water system plan, requirements—Municipal water suppliers, retail service.

In approving the water system plan of a public water system, the department shall ensure that water service to be provided by the system under the plan for any new industrial, commercial, or residential use is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area. A municipal water supplier, as defined in RCW 90.03.015, has a duty to provide retail water service within its retail service area if: (1) Its service can be available in a timely and reasonable manner; (2) the municipal water supplier has sufficient water rights to provide the service; (3) the municipal water supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by the department of health; and (4) it is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area and, for water service by the water utility of a city or town, with the utility service extension ordinances of the city or town. [2003 1st sp.s. c 5 § 8.]

Additional notes found at www.leg.wa.gov

43.20.265 Elevated lead level—Definition. After July 1, 2030, the state board may, by rule, define "elevated lead level" at a concentration of five or fewer parts per billion if scientific evidence supports a lower concentration as having the potential for further reducing the health effects of lead contamination in drinking water. [2021 c 154 § 6.]

Findings—Intent—Short title—2021 c 154: See notes following RCW 43.70.830.

43.20.270 Governor's interagency coordinating council on health disparities—Action plan—Statewide policy. The legislature finds that women and people of color experience significant disparities from men and the general population in education, employment, healthful living conditions, access to health care, and other social determinants of health. The legislature finds that these circumstances coupled with lower, slower, and less culturally appropriate and gender appropriate access to needed medical care result in higher rates of morbidity and mortality for women and persons of color than observed in the general population. Health disparities are defined by the national institute of health as the differences in incidence, prevalence, mortality, and burden of disease and other adverse health conditions that exist among specific population groups in the United States.

It is the intent of the Washington state legislature to create the healthiest state in the nation by striving to eliminate health disparities in people of color and between men and women. In meeting the intent of chapter 239, Laws of 2006, the legislature creates the governor's interagency coordinating council on health disparities. This council shall create an action plan and statewide policy to include health impact reviews that measure and address other social determinants of health that lead to disparities as well as the contributing factors of health that can have broad impacts on improving status, health literacy, physical activity, and nutrition. [2006 c 239 § 1.]

43.20.275 Council created—Membership—Duties—Advisory committees. (1) In collaboration with staff whom the office of financial management may assign, and within funds made expressly available to the state board for these purposes, the state board shall assist the governor by convening and providing assistance to the council. The council shall include one representative from each of the following groups: Each of the commissions, the state board, the department, the department of social and health services, the department of commerce, the health care authority, the department of agriculture, the department of ecology, the office of the superintendent of public instruction, the department of children, youth, and families, the workforce training and education coordinating board, and two members of the public who will represent the interests of health care consumers. The council is a class one group under RCW 43.03.220. The two public members shall be paid per diem and travel expenses in accordance with RCW 43.03.050 and 43.03.060. The council shall reflect diversity in race, ethnicity, and gender. The governor or the governor's designee shall chair the council.

(2) The council shall promote and facilitate communication, coordination, and collaboration among relevant state agencies and communities of color, and the private sector and public sector, to address health disparities. The council shall conduct public hearings, inquiries, studies, or other forms of information gathering to understand how the actions of state government ameliorate or contribute to health disparities. All state agencies must cooperate with the council's efforts.

(3) The council with assistance from the state board, shall assess through public hearings, review of existing data,

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and other means, and recommend initiatives for improving the availability of culturally appropriate health literature and interpretive services within public and private health-related agencies.

(4) In order to assist with its work, the council shall establish advisory committees to assist in plan development for specific issues and shall include members of other state agencies and local communities.

(5) The advisory committee shall reflect diversity in race, ethnicity, and gender. [2018 c 58 § 19; 2006 c 239 § 3.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.20.280 Action plan for eliminating health disparities—Council meetings—Reports to the legislature. The council shall consider in its deliberations and by 2012, create an action plan for eliminating health disparities. The action plan must address, but is not limited to, the following diseases, conditions, and health indicators: Diabetes, asthma, infant mortality, HIV/AIDS, heart disease, strokes, breast cancer, cervical cancer, prostate cancer, chronic kidney disease, sudden infant death syndrome (SIDS), mental health, women's health issues, smoking cessation, oral disease, and immunization rates of children and senior citizens. The council shall prioritize the diseases, conditions, and health indicators according to prevalence and severity of the health disparity. The council shall address these priorities on an incremental basis by adding no more than five of the diseases, conditions, and health indicators to each update or revised version of the action plan. The action plan shall be updated biannually. The council shall meet as often as necessary but not less than two times per calendar year. The council shall report its progress with the action plan to the governor and the legislature no later than January 15, 2008. A second report shall be presented no later than January 15, 2010, and a third report from the council shall be presented to the governor and the legislature no later than January 15, 2012. Thereafter, the governor and legislature shall require progress updates from the council every four years in odd-numbered years. The action plan shall recognize the need for flexibility. [2006 c 239 § 4.]

43.20.285 Health impact reviews—Obtaining and allocating federal or private funding to implement chapter. The state board shall, to the extent that funds are available expressly for this purpose, complete health impact reviews, in collaboration with the council, and with assistance that shall be provided by any state agency of which the board makes a request.

(1) A health impact review may be initiated by a written request submitted according to forms and procedures proposed by the council and approved by the state board before December 1, 2006.

(2) Any state legislator or the governor may request a review of any proposal for a state legislative or budgetary change. Upon receiving a request for a health impact review from the governor or a member of the legislature during a legislative session, the state board shall deliver the health impact review to the requesting party in no more than ten days.

(3) The state board may limit the number of health impact reviews it produces to retain quality while operating within its available resources.

(4) A state agency may decline a request to provide assistance if complying with the request would not be feasible while operating within its available resources.

(5) Upon delivery of the review to the requesting party, it shall be a public document, and shall be available on the state board's website.

(6) The review shall be based on the best available empirical information and professional assumptions available to the state board within the time required for completing the review. The review should consider direct impacts on health disparities as well as changes in the social determinants of health.

(7) The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board and affected agencies to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund. [2006 c 239 § 5.]

43.20.290 Obtaining and allocating federal or private funding. The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund. [2006 c 239 § 6.]

43.20.300 Local boards of health—Membership. (1) The state board of health shall adopt rules establishing the appointment process for the members of local boards of health who are not elected officials. The selection process established by the rules must:

(a) Be fair and unbiased; and

(b) Ensure, to the extent practicable, that the membership of local boards of health include a balanced representation of elected officials and nonelected people with a diversity of expertise and lived experience.

(2) The rules adopted under this section must go into effect no later than one year after July 25, 2021. [2021 c 205 § 8.]

Finding—2021 c 205: See note following RCW 43.70.675.

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- 43.20A.875 Employee incentive program pilot—WorkFirst program.
- 43.20A.880 Training competencies and learning outcomes.
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Air pollution

limitation on other governmental units or persons: RCW 70A.15.3040.
personnel, employment of: RCW 70A.15.3030.

Alcoholism

private establishments and institutions: Chapter 71.12 RCW.
treatment program, generally: Chapter 70.96 RCW.

Assisted living facility licensing: Chapter 18.20 RCW.

Certification of birth, death, or fetal death: Chapter 70.58A RCW.

Child welfare agencies: RCW 74.15.060.

Children, expectant mothers, persons with developmental disabilities, health protection as to agencies providing for, duties of secretary of health: RCW 74.15.060.

City sewerage systems, investigation: RCW 35.88.090.

Commission merchants, damaged or unfit products, certificate as to, issued by department: RCW 20.01.450.

Control of pet animals infected with diseases communicable to humans, secretary's duties: Chapter 16.70 RCW.

County sewerage and water systems, approval by department: RCW 36.94.100.

Criminally insane, rights, responsibilities and duties: Chapter 10.77 RCW.

Diabetes, policy for inservice training for school staff treating and monitoring affected students: RCW 28A.210.340.

Educational programs for residential school residents, departmental duties and authority: RCW 28A.190.030 through 28A.190.060.

Family preservation services: Chapter 74.14C RCW.

Fees for repository of vaccines and biologics: RCW 70.54.190.

Food stamps: RCW 74.04.500.

Health, department of, functions transferred to: RCW 43.70.900.

Hospital and medical facilities survey and construction

generally: Chapter 70.40 RCW.

secretary's duties: RCW 70.40.040.

state plan: RCW 70.40.090, 70.40.100.

Hospitals for individuals with mental illness, private establishments

conferences with management: RCW 71.12.530.

examinations generally: RCW 71.12.510, 71.12.520.

Independent youth housing program: RCW 43.63A.305.

Juvenile justice act of 1977, department and secretary's duties under: Chapter 13.40 RCW.

License

examination for compliance with: RCW 71.12.500.

examination of premises: RCW 71.12.480.

issuance: RCW 71.12.460.

Licensing of adult family homes: Chapter 70.128 RCW.

Medical assistance: Chapter 74.09 RCW.

Mental illness, department's duties relating to: Chapter 71.05 RCW.

Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment: RCW 43.41.260.

Mosquito control, duties in regard to: Chapter 70.22 RCW.

Nursing homes licensing, duties concerning: Chapter 18.51 RCW.

Occupational and environmental research facility advisory committee, membership: RCW 28B.20.456.

Occupational forecast—Agency consultation: RCW 50.38.030.

Offices maintained at state capital: RCW 43.17.050.

Pediatric transitional care services: RCW 71.12.686.

Powers and duties, generally: RCW 43.17.030.

Public assistance: Chapters 74.08 and 74.09 RCW.

Purchase of products and services provided by entities serving or providing opportunities through community rehabilitation programs: RCW 39.26.230.

Residential schools and/or homes for children with disabilities: RCW 28A.155.040.

Rules and regulations of department: RCW 43.17.060.

Sanitation advice to local authority: RCW 70.54.040.

Secretary

appointment: RCW 43.17.020.

chief assistants: RCW 43.17.040.

oath: RCW 43.17.030.

vacancy: RCW 43.17.020, 43.17.040.

Shellfish sanitation control: Chapter 69.30 RCW.

State otologist

appointment: RCW 70.50.010.

duties: RCW 70.50.020.

Temporary assistance for needy families: Chapter 74.12 RCW.

Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

Vital statistics: Chapter 70.58A RCW.

Working connections child care program, department's duties: RCW 43.216.141.

43.20A.005 Intent—Public involvement and outreach. It is the intent of the legislature that the department of social and health services and the department of ecology, in consultation with affected constituent groups, continue appropriate public involvement and outreach mechanisms designed to provide cost-effective public input on their programs and policies. [2001 c 291 § 1001.]

Additional notes found at www.leg.wa.gov

43.20A.010 Purpose. The department of social and health services is designed to integrate and coordinate all those activities involving provision of care for individuals who, as a result of their economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services. In order to provide for maximum efficiency of operation consistent with meeting the needs of those served or affected, the department will encompass substantially all of the powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council and the division of vocational rehabilitation of the coordinating council on occupational education. The department will concern itself with changing social needs, and will expedite the development and implementation of programs designed to achieve its goals. In furtherance of this policy, it is the legislative intent to set forth only the broad outline of the structure of the department, leaving specific details of its internal organization and management to those charged with its administration. [1989 1st ex.s. c 9 § 211; 1979 c 141 § 60; 1970 ex.s. c 18 § 1.]

***Reviser's note:** Phrase "Except as otherwise in this amendatory act provided" refers to 1970 ex.s. c 18 § 67, uncodified, which pertained to laws

amended in existing education code and as the same were reenacted in the new education code, effective July 1, 1970, not otherwise pertinent hereto.

Additional notes found at www.leg.wa.gov

43.20A.020 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "Deputy secretary" means the deputy secretary of the department of social and health services.

(4) "Overpayment" means any department payment or department benefit to a recipient or to a vendor in excess of that to which the recipient or vendor is entitled by law, rule, or contract, including amounts in dispute pending resolution.

(5) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions. [1987 c 283 § 1; 1979 c 141 § 61; 1970 ex.s. c 18 § 2.]

Additional notes found at www.leg.wa.gov

43.20A.030 Department created—Powers and duties transferred to. There is hereby created a department of state government to be known as the department of social and health services. All powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education are transferred to the department. Powers, duties and functions to be transferred shall include, but not be limited to, all those powers, duties and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs. [1989 1st ex.s. c 9 § 212; 1979 c 141 § 62; 1970 ex.s. c 18 § 3.]

Additional notes found at www.leg.wa.gov

43.20A.035 Inventory of charitable, educational, penal, and reformatory land. The department shall conduct an inventory of real properties as provided in *RCW 79.01.006. [1991 c 204 § 2.]

*Reviser's note: RCW 79.01.006 was recodified as RCW 79.02.400 pursuant to 2003 c 334 § 554.

43.20A.037 Affordable housing—Inventory of suitable housing. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the *department of community, trade, and economic development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of

real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1995 c 399 § 65; 1993 c 461 § 8.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—1993 c 461: See note following RCW 43.63A.510.

43.20A.040 Secretary of social and health services—Appointment—Term—Salary—Temporary appointment if vacancy—As executive head and appointing authority. The executive head and appointing authority of the department shall be the secretary of social and health services. He or she shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. He or she shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his or her position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he or she shall present to that body his or her nomination for the office. [2009 c 549 § 5073; 1970 ex.s. c 18 § 4.]

43.20A.050 Secretary of social and health services—Powers and duties generally—Employment of assistants and personnel, limitation. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the secretary to institute the flexible, alert and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the secretary's authority is not specifically limited by law, he or she shall have complete charge and supervisory powers over the department. The secretary is authorized to create such administrative structures as deemed appropriate, except as otherwise specified by law. The secretary shall have the power to employ such assistants and personnel as may be necessary for the general administration of the department. Except as elsewhere specified, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1997 c 386 § 41; 1979 c 141 § 63; 1970 ex.s. c 18 § 5.]

43.20A.060 Departmental divisions—Plan establishing and organizing. The department of social and health services shall be subdivided into divisions, including a division of vocational rehabilitation. Except as otherwise specified or as federal requirements may differently require, these divisions shall be established and organized in accordance with plans to be prepared by the secretary and approved by the governor. In preparing such plans, the secretary shall endeavor to promote efficient public management, to improve programs, and to take full advantage of the economies, both fiscal and administrative, to be gained from the consolidation of the departments of public assistance, institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education. [1989 1st ex.s. c 9 § 213; 1979 c 141 § 64; 1970 ex.s. c 18 § 6.]

Additional notes found at www.leg.wa.gov

43.20A.073 Rule making regarding sex offenders. See RCW 72.09.337.

43.20A.075 Rule-making authority. For rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 102.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.20A.080 Data sharing—Confidentiality—Penalties. (1) The department shall provide the employment security department quarterly with the names and social security numbers of all clients in the WorkFirst program and any successor state welfare program.

(2) The information provided by the employment security department under RCW 50.13.060 for statistical analysis and welfare program evaluation purposes may be used only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. Through individual matches with accessed employment security department confidential employer wage files, only aggregate, statistical, group level data shall be reported. Data sharing by the employment security department may be extended to include the office of financial management and other such governmental entities with oversight responsibility for this program.

(3) The department and other agencies of state government shall protect the privacy of confidential personal data supplied under RCW 50.13.060 consistent with federal law, chapters 50.13 and 50A.25 RCW, and the terms and conditions of a formal data-sharing agreement between the employment security department and agencies of state government, however the misuse or unauthorized use of confidential data supplied by the employment security department is subject to the penalties in RCW 50.13.080 and 50A.25.120. [2019 c 13 § 67; 1997 c 58 § 1005.]

Additional notes found at www.leg.wa.gov

43.20A.090 Deputy secretary—Department personnel director—Assistant secretaries—Appointment—Duties—Salaries. The secretary shall appoint a deputy secretary, a department personnel director and such assistant secretaries as shall be needed to administer the department. The deputy secretary shall have charge and general supervision of the department in the absence or disability of the secretary, and in case of a vacancy in the office of secretary, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting secretary. The officers appointed under this section, and exempt from the provisions of the state civil service law by the terms of *RCW 41.06.076, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [2017 3rd sp.s. c 6 § 811; 1994 sp.s. c 7 § 515; 1970 ex.s. c 18 § 7.]

*Reviser's note: RCW 41.06.076 expired June 30, 2005.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

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Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.20A.105 Social worker V employees—Implementation plan. The secretary shall develop a plan for implementation for the social worker V employees. The implementation plan shall be submitted to the governor and the legislature by December 1, 1997. The department shall begin implementation of the plan beginning April 1, 1998. The department shall perform the duties assigned under *sections 3 through 5, chapter 386, Laws of 1997 and **RCW 41.06.076 within existing personnel resources. [1997 c 386 § 5.]

Reviser's note: *(1) 1997 c 386 §§ 3 and 4 were vetoed. 1997 c 386 § 5 was codified as RCW 43.20A.105.

** (2) RCW 41.06.076 expired June 30, 2005.

43.20A.110 Secretary's delegation of powers and duties. The secretary may delegate any power or duty vested in or transferred to him or her by law, or executive order, to his or her deputy secretary or to any other assistant or subordinate; but the secretary shall be responsible for the official acts of the officers and employees of the department. [2009 c 549 § 5074; 1970 ex.s. c 18 § 9.]

43.20A.130 Secretary or designee as member of state board of health. See RCW 43.20.030.

43.20A.167 Federal Older Americans Act of 1965—Department to participate in and administer. See RCW 74.36.100.

43.20A.168 Community programs and projects for the aging. See RCW 74.36.110 through 74.36.130.

43.20A.205 Denial, suspension, revocation, or modification of license. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the division of child support that the licensee is a person who is not in compliance with a support order or an order from court stating that the licensee is in noncompliance with a *residential or visitation order under chapter 26.09 RCW, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a support order under chapter 74.20A RCW or a *residential or visitation order under chapter 26.09 RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1997 c 58 § 841; 1989 c 175 § 95.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.20A.215 Assessment of civil fine. This section governs the assessment of a civil fine against a person by the department.

(1) The department shall written give [written] notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is

due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1989 c 175 § 96.]

Additional notes found at www.leg.wa.gov

43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation—Exception.

Except as provided in RCW 74.18.060, the department of social and health services shall serve as the sole agency of the state for the receipt of federal funds made available by acts of congress for vocational rehabilitation within this state. [1983 c 194 § 28; 1977 ex.s. c 40 § 15; 1970 ex.s. c 18 § 40.]

Additional notes found at www.leg.wa.gov

43.20A.310 Vocational rehabilitation, powers and duties of secretary or designee. In addition to his or her other powers and duties, the secretary or his or her designee, shall have the following powers and duties:

(1) To prepare, adopt and certify the state plan for vocational rehabilitation;

(2) With respect to vocational rehabilitation, to adopt necessary rules and regulations and do such other acts not forbidden by law necessary to carry out the duties imposed by state law and the federal acts;

(3) To carry out the aims and purposes of the acts of congress pertaining to vocational rehabilitation. [2009 c 549 § 5075; 1979 c 141 § 65; 1970 ex.s. c 18 § 42.]

43.20A.320 Consultation with coordinating council for occupational education.

The secretary or his or her designee shall consult with the coordinating council for occupational education in order to maintain close contact with developing programs of vocational education, particularly as such programs may affect programs undertaken in connection with vocational rehabilitation. [2009 c 549 § 5076; 1970 ex.s. c 18 § 43.]

43.20A.350 Committees and councils—Declaration of purpose.

The legislature declares that meaningful citizen involvement with and participation in the planning and programs of the department of social and health services are essential in order that the public may better understand the operations of the department, and the department staff may obtain the views and opinions of concerned and affected citizens. As a result of the creation of the department of social and health services and the resulting restructuring of pro-

grams and organization of the department's components, and as a further result of the legislative mandate to the department to organize and deliver services in a manner responsive to changing needs and conditions, it is necessary to provide for flexibility in the formation and functioning of the various committees and councils which presently advise the department, to restructure the present committees and councils, and to provide for new advisory committees and councils, so that all such committees and councils will more appropriately relate to the changing programs and services of the department. [1971 ex.s. c 189 § 1.]

43.20A.360 Committees and councils—Appointment—Memberships—Terms—Vacancies—Travel expenses. (1) The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint statewide committees or councils in the following subject areas: (a) Health facilities; (b) blind services; (c) medical and health care; (d) drug abuse and alcoholism; (e) social services; (f) economic services; (g) vocational services; (h) rehabilitative services; and (i) on such other subject matters as are or come within the department's responsibilities. The statewide councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

(2) Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [2017 3rd sp.s. c 6 § 328; 2001 c 291 § 101. Prior: 1989 1st ex.s. c 9 § 214; 1989 c 11 § 14; 1984 c 259 § 1; 1981 c 151 § 6; 1977 c 75 § 45; 1975-'76 2nd ex.s. c 34 § 98; 1971 ex.s. c 189 § 2.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Additional notes found at www.leg.wa.gov

43.20A.390 Per diem or mileage—Limitation. Notwithstanding any other provision of chapter 189, Laws of 1971 ex. sess., no person shall receive as compensation or reimbursement for per diem or mileage authorized in chapter 189, Laws of 1971 ex. sess. any amount that would exceed the per diem or mileage provided in RCW 43.03.050 and 43.03.060. [1971 ex.s. c 189 § 16.]

43.20A.400 Purchase of services from public or non-profit agencies—Utilization of nonappropriated funds. Notwithstanding any other provisions of law, the secretary of the department of social and health services is authorized to utilize nonappropriated funds made available to the department, in order to compliment the social and health services

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programs of the department by purchase of services from public or nonprofit agencies. The purpose of this authorization is to augment the services presently offered and to achieve pooling of public and nonprofit resources. [1971 ex.s. c 309 § 1.]

43.20A.405 Purchase of services from public or non-profit agencies—Vendor rates—Establishment. After obtaining the review and advice of the governor's advisory committee on vendor rates, the secretary shall establish rates of payment for services which are to be purchased: PROVIDED, That the secretary shall afford all interested persons reasonable opportunity to submit data, views, or arguments, and shall consider fully all submissions respecting the proposed rates. Prior to the establishment of such rates, the secretary shall give at least twenty days notice of such intended action by mail to such persons or agencies as have made timely request of the secretary for advance notice of establishment of such vendor rates. Such rates shall not exceed the amounts reasonable and necessary to assure quality services and shall not exceed the costs reasonably assignable to such services pursuant to cost finding and monitoring procedures to be established by the secretary. Information to support such rates of payment shall be maintained in a form accessible to the public. [1971 ex.s. c 309 § 2.]

43.20A.410 Purchase of services from public or non-profit agencies—Factors to be considered. In determining whether services should be purchased from other public or nonprofit agencies, the secretary shall consider:

(1) Whether the particular service or services is available or might be developed.

(2) The probability that program and workload performance standards will be met, by means of the services purchased.

(3) The availability of reasonably adequate cost finding and performance evaluation criteria.

Nothing in RCW 43.20A.400 through 43.20A.430 is to be construed to authorize reduction in state employment in service component areas presently rendering such services. [1971 ex.s. c 309 § 3.]

43.20A.415 Purchase of services from public or non-profit agencies—Retention of basic responsibilities by secretary. When, pursuant to RCW 43.20A.400 through 43.20A.430, the secretary elects to purchase a service or services, he or she shall retain continuing basic responsibility for:

(1) Determining the eligibility of individuals for services;

(2) The selection, quality, effectiveness, and execution of a plan or program of services suited to the need of an individual or of a group of individuals; and

(3) Measuring the cost effectiveness of purchase of services. [2009 c 549 § 5077; 1971 ex.s. c 309 § 4.]

43.20A.420 Purchase of services from public or non-profit agencies—Secretary to provide consultative, technical and development services to suppliers—Review of services. The secretary shall work with the suppliers of purchased services by:

- (1) Providing consultation and technical assistance;
- (2) Monitoring and periodically reviewing services in order to assure satisfactory performance including adherence to state prescribed workload and quality standards; and
- (3) Developing new and more effective and efficient approaches to and methods of delivering services. [1971 ex.s. c 309 § 5.]

43.20A.425 Purchase of services from public or non-profit agencies—Qualifications of vendors. The secretary shall assure that sources from which services are purchased are: (1) Licensed, or (2) meet applicable accrediting standards, or (3) in the absence of licensing or accrediting standards, meet standards or criteria established by the secretary to assure quality of service: PROVIDED, That this section shall not be deemed to dispense with any licensing or accrediting requirement imposed by any other provision of law, by any county or municipal ordinance, or by rule or regulation of any public agency. [1971 ex.s. c 309 § 6.]

43.20A.430 Purchase of services from public or non-profit agencies—Retention of sums to pay departmental costs. The secretary shall, if not otherwise prohibited by law, pursuant to agreement between the department and the agency in each contract, retain from such nonappropriated funds sufficient sums to pay for the department's administrative costs, monitoring and evaluating delivery of services, and such other costs as may be necessary to administer the department's responsibilities under RCW 43.20A.400 through 43.20A.430. [1971 ex.s. c 309 § 7.]

43.20A.445 State-operated workshops at institutions—Authorized—Standards. The department may establish and operate workshops for the training, habilitation, and rehabilitation of residents of institutions of the department. Products, goods, wares, articles, or merchandise manufactured or produced by the workshops may be sold to governmental agencies or on the open market at fair value. Prior to establishment of new state-operated workshops at institutions, the department shall consider the availability, appropriateness, and relative cost of contracting with and giving first preference to private nonprofit sheltered workshops, as defined in RCW 82.04.385, to provide workshop activities for residents of the institution.

The secretary shall credit the moneys derived from the sale of items from workshops under this section to a revolving fund under the control of the superintendent of the institution or facility where the items were manufactured. These moneys shall be expended for the purchase of supplies and materials for use in the workshop, to provide pay and training incentives for residents, and for other costs of the operation of the workshop. Payment of residents for work performed on workshop projects shall take into account resident productivity in comparison to the productivity of a nondisabled person earning the minimum wage as well as other factors consistent with goals of rehabilitation and treatment. Institutional work training programs shall be operated in accordance with standards required by the department for private vendors for the same or similar service.

Workshop materials and supplies may be purchased through state purchasing or from private vendors. Each insti-

tion or facility shall maintain records to demonstrate that purchases are made at the fair market value or best available price. [1983 1st ex.s. c 41 § 20.]

Additional notes found at www.leg.wa.gov

43.20A.465 Contracted service providers—Disruption or delay by economic or industrial actions. (1) Any contract entered into or renewed by the department with a private contractor for adult care, mental health, addiction, disability support, or youth services must contain an assurance that the contracted services will not be disrupted or delayed by economic or industrial action. The assurance may be provided through the execution of an agreement between the contractor and any labor organization that represents or seeks to represent the employees of the private contractor that perform or will perform the essential services contracted for by the department.

(2) The assurance required under subsection (1) of this section must be a condition of contracting with the department and may be satisfied through one or more of the following contractual commitments made on the part of the contractor through the life of the contract as a condition of receiving or renewing a contract:

(a) An agreement between the contractor and any exclusive representative labor organization representing the employees performing the contracted services that contains a provision prohibiting economic or industrial action on the part of all parties and includes a process for the resolution of disputes between them;

(b) An agreement between the contractor and any labor organization seeking to represent the employees performing the contracted services that includes a provision prohibiting the parties from causing, promoting, or encouraging economic, industrial, or other disruptive activity on the part of the contractor or employees performing services under the contract, and includes a process for resolution of disputes between parties; or

(c) Any other agreement or binding obligation providing assurances equivalent to those specified in (a) and (b) of this subsection that are to be maintained through the life of the contract.

(3) The assurance made to the department must be a binding provision of any contract subject to this section and constitutes a warranty to the department on the part of the contractor.

(4) Failure to maintain the assurance, such that the services contracted by the department are interrupted, shall entitle the department to terminate, suspend, or revoke the contract and make arrangements for the provision of services by other means.

(5) In awarding any contract subject to this section, the department must take into consideration any prior disruptions in the provision of services by the contractor and whether the assurance provided by the contractor pursuant to this section has mitigated the risk of a reoccurrence of the disruptions, if any.

(6) Any contract subject to this section that is awarded or renewed must include a provision providing for reimbursement to the department of the actual costs to the department arising from the inadequacy of the assurance provided by the contractor. [2020 c 201 § 2.]

Intent—Findings—2020 c 201: "The legislature intends to provide the uninterrupted delivery of essential services to its most vulnerable citizens and to provide efficiency and quality in the delivery of such services purchased by the state. The legislature finds that the state's proprietary interest in procuring the services authorized by chapter 43.20A RCW includes providing continuity in the delivery of such services without interruption by its vendors and contractors. The legislature finds that this interest is served by making sure private sector providers contracted by the state have averted or meaningfully mitigated the possibility of service disruptions resulting from labor management disputes and employee unrest.

The legislature finds that the contracts and services subject to chapter 43.20A RCW are essential and, if disrupted, could harm vulnerable members of the community, compromise the efficient delivery of essential state services, and burden taxpayers with additional costs. Thus, the legislature designates the continuity of operations as a vital procurement goal with respect to services that the state funds to provide these services to the public.

The legislature further finds that by contracting for the provisions of the services rather than providing them directly, the state may negotiate contracts with vendors that are conditioned on meeting this procurement goal insofar as private entities continue to find it commercially advantageous to offer such services to the state on the terms sought by the state." [2020 c 201 § 1.]

43.20A.550 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Statutes to be construed to meet federal law—Conflicting parts deemed inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of chapter 18, Laws of 1970 ex. sess. is declared to be inoperative solely to the extent of the conflict. [1979 c 141 § 66; 1970 ex.s. c 18 § 66.]

43.20A.605 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary or a designee shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him or her together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2).

(4) When a judicially approved subpoena is required by law, the secretary or designee may apply for and obtain a superior court order approving and authorizing a subpoena in

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advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or in the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(5) When an application under subsection (4) of this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. When a judicially approved subpoena is required by law, an order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(6) The secretary or designee may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2011 1st sp.s. c 42 § 23; 2009 c 549 § 5078; 1989 c 175 § 97; 1983 1st ex.s. c 41 § 21; 1979 c 141 § 47; 1967 ex.s. c 102 § 2. Formerly RCW 43.20.015.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

Additional notes found at www.leg.wa.gov

43.20A.607 Authority to appoint a single executive officer for multiple institutions—Exception. The secretary may appoint one individual to serve as chief executive officer, administrator, or superintendent for more than one facility or institution of the department where one or both facilities or institutions are required by law to have a chief executive officer, administrator, or superintendent. This section, however, shall not apply to RCW 72.40.020. [1983 1st ex.s. c 41 § 25.]

Chief executive officers—Appointment: RCW 72.01.060.

Additional notes found at www.leg.wa.gov

43.20A.610 Employment of deputies, experts, physicians, etc. The secretary may appoint and employ such deputies, scientific experts, physicians, nurses, sanitary engineers, and other personnel including consultants, and such clerical and other assistants as may be necessary to carry on the work of the department of social and health services. [1979 c 141 § 48; 1967 ex.s. c 102 § 8; 1965 c 8 § 43.20.040. Prior: 1961 ex.s. c 5 § 1; 1921 c 7 § 57; RRS § 10815. Formerly RCW 43.20.040.]

Additional notes found at www.leg.wa.gov

43.20A.635 Services for children with disabilities. It shall be the duty of the secretary of social and health services and he or she shall have the power to establish and administer a program of services for children with disabilities or who are

suffering from physical conditions which lead to disabilities, which shall provide for developing, extending, and improving services for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare; to supervise the administration of those services, included in the program, which are not administered directly by it; to extend and improve any such services, including those in existence on April 1, 1941; to cooperate with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation of children with physical disabilities; to cooperate with the federal government, through its appropriate agency or instrumentality in developing, extending, and improving such services; and to receive and expend all funds made available to the department by the federal government, the state or its political subdivisions or from other sources, for such purposes. [2020 c 274 § 21; 2009 c 549 § 5079; 1979 c 141 § 52; 1965 c 8 § 43.20.130. Prior: 1941 c 129 § 1; Rem. Supp. 1941 § 9992-107a; prior: 1937 c 114 § 7. Formerly RCW 74.12.210; 43.20.130.]

Center for research and training in intellectual and developmental disabilities, assistant secretaries as members of advisory committee: RCW 28B.20.412.

Children with disabilities, copy of commitment order transmitted to department: RCW 26.40.060.

43.20A.660 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20A RCW, or regulations promulgated thereunder, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20A RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [2009 c 549 § 5080; 1989 1st ex.s. c 9 § 215; 1979 c 141 § 57; 1967 ex.s. c 102 § 7. Formerly RCW 43.20.190.]

Additional notes found at www.leg.wa.gov

43.20A.675 Office of the deaf and hard of hearing—Educational materials. The office of the deaf and hard of hearing shall develop educational materials to be distributed by hearing aid dispensers, including audiologists, to persons with hearing loss that explains the uses, benefits, and limitations of current hearing assistive technologies as defined by the department of health in rule. [2019 c 183 § 3.]

Findings—Intent—2019 c 183: See note following RCW 18.35.310.

43.20A.680 State council on aging established. The state council on aging is hereby established as an advisory council to the governor, the secretary of social and health services, and the office of aging or any other office solely designated as the state unit on aging. The state council on aging

may be designated by the governor to serve as the state advisory council to the state unit on aging with respect to federally funded programs as required by federal regulation. The director of the state unit on aging shall provide appropriate staff support. [1981 c 151 § 1.]

Additional notes found at www.leg.wa.gov

43.20A.685 State council on aging—Membership—Terms—Vacancies—Chairperson—Secretary—Compensation of legislative members. (1) Members of the council shall be appointed to terms of three years, except in the case of a vacancy, in which event appointment shall be for the remainder of the unexpired term for which the vacancy occurs. No member of the council may serve more than two consecutive three-year terms. Each area agency on aging advisory council shall appoint one member from its state-designated planning and service area. The governor shall appoint one additional member from names submitted by the association of Washington cities and one additional member from names submitted by the Washington state association of counties. In addition, the governor may appoint not more than five at large members, in order to ensure that rural areas (those areas outside of a standard metropolitan statistical area), minority populations, and those individuals with special skills which could assist the state council are represented. The members of the state council on aging shall elect, at the council's initial meeting and at the council's first meeting each year, one member to serve as chairperson of the council and another member to serve as secretary of the council.

(2) The speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members to the council; one from each of the two largest caucuses in each house. The terms of the members so appointed shall be for approximately two years and the terms shall expire before the first day of the legislative session in odd-numbered years. They shall be compensated by their respective houses as provided under RCW 44.04.120, as now or hereafter amended.

(3) With the exception of the members from the Washington state association of cities, the Washington state association of counties, and the nonvoting legislative members, all members of the council shall be at least fifty-five years old. [2011 1st sp.s. c 21 § 31; 1981 c 151 § 2.]

Additional notes found at www.leg.wa.gov

43.20A.690 State council on aging—Meetings—Compensation of nonlegislative members. The state council on aging shall meet monthly unless determined otherwise by a majority vote of the members, which vote shall be taken at a regular meeting of the council. Nonlegislative members shall serve without compensation but shall be reimbursed for travel expenses and per diem in the performance of their duties as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1981 c 151 § 3.]

Additional notes found at www.leg.wa.gov

43.20A.695 State council on aging—Powers and duties—Bylaws. (1) The state council on aging has the following powers and duties:

(a) To serve in an advisory capacity to the governor, the secretary of social and health services, and the state unit on

aging on all matters pertaining to policies, programs, and services affecting older persons;

(b) To create public awareness of the special needs and potentialities of older persons; and

(c) To provide for self-advocacy by older citizens of the state through sponsorship of training, legislative and other conferences, workshops, and such other methods as may be deemed appropriate.

(2) The council shall establish bylaws to aid in the performance of its powers and duties. [1981 c 151 § 4.]

Additional notes found at www.leg.wa.gov

43.20A.710 Investigation of conviction records or pending charges of state employees and individual providers. (1) The secretary shall investigate the conviction records, pending charges and disciplinary board final decisions of:

(a) Any current employee or applicant seeking or being considered for any position with the department who will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. This includes, but is not limited to, positions conducting comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(b) Individual providers as defined in RCW 74.39A.240 and providers who are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW; and

(c) Individuals or businesses or organizations for the care, supervision, case management, or treatment of children, persons with developmental disabilities, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

(2) The secretary shall require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation as provided in RCW 43.43.837. Unless otherwise authorized by law, the secretary shall use the information solely for the purpose of determining the character, suitability, and competence of the applicant.

(3) Except as provided in subsection (4) of this section, an individual provider or home care agency provider who has resided in the state less than three years before applying for employment involving unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must be fingerprinted for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110. However, this subsection does not supersede RCW 74.15.030(2).

(4) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject

to background checks under RCW 74.39A.056, except that the department may require a background check at any time under RCW 43.43.837. For the purposes of this subsection, "background check" includes, but is not limited to, a fingerprint check submitted for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(5) An individual provider or home care agency provider hired to provide in-home care for and having unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must have no conviction for a disqualifying crime under RCW 43.43.830 and 43.43.842. An individual or home care agency provider must also have no conviction for a crime relating to drugs as defined in RCW 43.43.830. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110.

(6) The secretary shall provide the results of the state background check on long-term care workers, including individual providers, to the persons hiring them or to their legal guardians, if any, for their determination of the character, suitability, and competence of the applicants. If the person elects to hire or retain an individual provider after receiving notice from the department that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, then the secretary shall deny payment for any subsequent services rendered by the disqualified individual provider.

(7) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

(8) Any person whose criminal history would otherwise disqualify the person under this section or RCW 43.43.842, from a position which will or may have unsupervised access to children, vulnerable adults, or persons with mental illness or developmental disabilities shall not be automatically disqualified if:

(a) The department of social and health services reviewed the person's otherwise disqualifying criminal history through the department of social and health services' background assessment review team process conducted in 2002 and determined that such person could remain in a position covered by this section;

(b) The conviction is no longer automatically disqualifying pursuant to RCW 43.20A.715;

(c) The applicant has received a certificate of restoration of opportunity for the convictions pursuant to RCW 9.97.020, and the department of social and health services has not disqualified the applicant based on character, competence, and suitability review; or

(d) The conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure.

(9) The department may not consider any founded finding of physical abuse or negligent treatment or maltreatment of a child made pursuant to chapter 26.44 RCW that is accompanied by a certificate of parental improvement or dependency as a result of a finding of abuse or neglect pursu-

ant to chapter 13.34 RCW that is accompanied by a certificate of parental improvement when evaluating an applicant or employee's character, competency, and suitability pursuant to any background check authorized or required by this chapter, RCW 74.39A.056 or 43.43.832, or any of the rules adopted thereunder. [2021 c 219 § 4; 2020 c 270 § 10; 2014 c 88 § 2; 2012 c 164 § 505; 2011 1st sp.s. c 31 § 16; 2011 c 253 § 1; 2009 c 580 § 5; 2001 c 296 § 5; 2000 c 87 § 2; 1999 c 336 § 7; 1997 c 392 § 525; 1993 c 210 § 1; 1989 c 334 § 13; 1986 c 269 § 1.]

Rules—Conflict with federal requirements—2021 c 219: See notes following RCW 43.20A.715.

Effective date—2020 c 270: See note following RCW 74.13.720.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Intent—2001 c 296: See note following RCW 9.96A.060.

Finding—Intent—1999 c 336: See note following RCW 74.39.007.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Children or vulnerable adults: RCW 43.43.830 through 43.43.842.

Employees with unsupervised access to children—Rules for background investigation: RCW 41.06.475.

State hospitals: RCW 72.23.035.

Additional notes found at www.leg.wa.gov

43.20A.711 Receipt and use of criminal history information. The secretary is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with an investigation under chapter 74.04 RCW. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. [2008 c 74 § 4.]

Finding—2008 c 74: See note following RCW 51.04.024.

43.20A.715 Long-term care worker screening—Limitations on disqualification. (1) Where the department is required to screen a long-term care worker, contracted provider, or licensee through a background check to determine whether the person has a history that would disqualify the person from having unsupervised access to, working with, or providing supervision, care, or treatment to vulnerable adults or children, the department may not automatically disqualify a person on the basis of a criminal record that includes a conviction of any of the following crimes once the specified amount of time has passed for the particular crime:

(a) Selling marijuana to a person under RCW 69.50.401 after three years or more have passed between the most recent conviction and the date the background check is processed;

(b) Theft in the first degree under RCW 9A.56.030 after 10 years or more have passed between the most recent conviction and the date the background check is processed;

(c) Robbery in the second degree under RCW 9A.56.210 after five years or more have passed between the most recent conviction and the date the background check is processed;

(d) Extortion in the second degree under RCW 9A.56.130 after five years or more have passed between the most recent conviction and the date the background check is processed;

(e) Assault in the second degree under RCW 9A.36.021 after five years or more have passed between the most recent

conviction and the date the background check is processed; and

(f) Assault in the third degree under RCW 9A.36.031 after five years or more have passed between the most recent conviction and the date the background check is processed.

(2) The provisions of subsection (1) of this section do not apply where the department is performing background checks for the department of children, youth, and families.

(3) The provisions of subsection (1) of this section do not apply to department employees or applicants for department positions except for positions in the state-operated community residential program.

(4) Notwithstanding subsection (1) of this section, a long-term care worker, contracted provider, or licensee may not provide, or be paid to provide, care to children or vulnerable adults under the medicare or medicaid programs if the worker is excluded from participating in those programs by federal law.

(5) The department, a contracted provider, or a licensee, when conducting a character, competence, and suitability review for the purpose of hiring, licensing, certifying, contracting with, permitting, or continuing to permit a person to be employed in any position caring for or having unsupervised access to vulnerable adults or children, may, in its sole discretion, determine whether to consider any of the convictions identified in subsection (1) of this section. If the department or a consumer directed employer as defined in RCW 74.39A.009 determines that an individual with any of the convictions identified in subsection (1) of this section is qualified to provide services to a department client as an individual provider as defined in RCW 74.39A.240, the department or the consumer directed employer must provide the client, and their guardian if any, with the results of the state background check for their determination of character, suitability, and competence of the individual before the individual begins providing services. The department, a contracted provider, or a licensee, when conducting a character, competence, and suitability review for the purpose of hiring, licensing, certifying, contracting with, permitting, or continuing to permit a person to be employed in any position caring for or having unsupervised access to vulnerable adults or children, has a rebuttable presumption that its exercise of discretion under this section or the refusal to exercise such discretion was appropriate. This subsection does not create a duty for the department to conduct a character, competence, and suitability review.

(6) For the purposes of the section:

(a) "Contracted provider" means a provider, and its employees, contracted with the department or an area agency on aging to provide services to department clients under programs under chapter 74.09, 74.39, 74.39A, or 71A.12 RCW. "Contracted provider" includes area agencies on aging and their subcontractors who provide case management.

(b) "Licensee" means a nonstate facility or setting that is licensed or certified, or has applied to be licensed or certified, by the department and includes the licensee and its employees. [2021 c 219 § 1.]

Rules—2021 c 219: "The department of social and health services and the department of health may adopt rules to implement this act." [2021 c 219 § 8.]

Conflict with federal requirements—2021 c 219: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2021 c 219 § 9.]

43.20A.720 Telecommunications devices and services for the hearing and speech impaired—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.20A.725.

(1) "Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

(2) "Speech impaired" means persons who are certified to be unable to speak or who are certified to have a speech impairment limiting their access to telecommunications.

(3) "Department" means the department of social and health services.

(4) "Office" means the office of deaf and hard of hearing within the state department of social and health services. [2001 c 210 § 1; 1992 c 144 § 2; 1990 c 89 § 2; 1987 c 304 § 2.]

Legislative findings—1992 c 144: "The legislature finds that the state of Washington has shown national leadership in providing telecommunications access for the hearing impaired and speech impaired communities. The legislature further finds that the federal Americans with Disabilities Act requires states to further enhance telecommunications access for disabled persons and that the state should be positioned to allow this service to be delivered with fairness, flexibility, and efficiency." [1992 c 144 § 1.]

Legislative finding—1990 c 89: "The legislature finds that provision of telecommunications devices and relay capability for hearing impaired persons is an effective and needed service which should be continued. The legislature further finds that the same devices and relay capability can serve and should be extended to serve speech impaired persons." [1990 c 89 § 1.]

Legislative findings—1987 c 304: "The legislature finds that it is more difficult for hearing impaired people to have access to the telecommunications system than hearing persons. It is imperative that hearing impaired people be able to reach government offices and health, human, and emergency services with the same ease as other taxpayers. Regulations to provide telecommunications devices for the deaf with a relay system will help ensure that the hearing impaired community has equal access to the public accommodations and telecommunications system in the state of Washington in accordance with chapter 49.60 RCW." [1987 c 304 § 1.]

Additional notes found at www.leg.wa.gov

43.20A.725 Telecommunications devices for the hearing and speech impaired—Program for provision of services and equipment—Rules. Subject to the enactment into law of the 2013 amendments to RCW 82.14B.040 in section 103, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.042 in section 104, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.030 in section 105, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.200 in section 106, chapter 8, Laws of 2013 2nd sp. sess., and the 2013 amendments to RCW 82.08.0289 in section 107, chapter 8, Laws of 2013 2nd sp. sess.:

(1) The department, through the sole authority of the office or its successor organization, must maintain a program whereby an individual of school age or older who possesses a hearing or speech impairment is provided with telecommuni-

cations equipment, software, and/or peripheral devices, digital or otherwise, that is determined by the office to be necessary for such a person to access and use telecommunications transmission services effectively.

(2) The department, through the sole authority of the office or its successor organization, must maintain a program where telecommunications relay services of a human or electronic nature will be provided to connect hearing impaired, deaf-blind, or speech impaired persons with persons who do not have a hearing or speech impairment. Such telecommunications relay services must provide the ability for an individual who has a hearing or speech impairment to engage in voice, tactile, or visual communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice or visual communication services by wire or radio subject to subsection (4)(b) of this section.

(3) The telecommunications relay service and equipment distribution program may operate in such a manner as to provide communications transmission opportunities that are capable of incorporating new technologies that have demonstrated benefits consistent with the intent of this chapter and are in the best interests of the citizens of this state.

(4) The office must administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services according to this section. The relay service contract must be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval. The relay system providers and telecommunications equipment vendors must be selected on the basis of cost-effectiveness and utility to the greatest extent possible under the program and technical specifications established by the office.

(a) To the extent funds are available for the purposes authorized by this chapter, the office may award contracts for communications and related services and equipment for hearing impaired or speech impaired individuals accessing or receiving services provided by, or contracted for, the department to meet access obligations under Title 2 of the federal Americans with disabilities act or related federal regulations.

(b) The office must perform its duties under this section with the goal of achieving functional equivalency of access to and use of telecommunications services similar to the enjoyment of access to and use of such services experienced by an individual who does not have a hearing or speech impairment only to the extent that funds are available for the purposes authorized by this chapter.

(5) The program must be funded by the legislature by means of a biennial general fund appropriation to the department for the purposes of the program.

(6) The telecommunications relay service program and equipment vendors must provide services and equipment consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications ser-

vices for the hearing impaired or speech impaired. The department and the utilities and transportation commission are responsible for ensuring compliance with federal requirements and must provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(7) The department must adopt rules establishing eligibility criteria, ownership obligations, financial contributions, and a program for distribution to individuals requesting and receiving such telecommunications devices distributed by the office, and other rules necessary to administer programs and services consistent with this chapter. [2013 2nd sp.s. c 8 § 109; 2011 1st sp.s. c 50 § 944; 2010 1st sp.s. c 37 § 921; 2004 c 254 § 1; 2001 c 210 § 2; 1998 c 245 § 59; 1993 c 425 § 1; 1992 c 144 § 3; 1990 c 89 § 3; 1987 c 304 § 3.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Legislative findings—Severability—1992 c 144: See notes following RCW 43.20A.720.

Legislative finding—1990 c 89: See note following RCW 43.20A.720.

Additional notes found at www.leg.wa.gov

43.20A.735 Domestic violence perpetrator programs.

Any program that provides domestic violence treatment to perpetrators of domestic violence must be certified by the department of social and health services and meet minimum standards for domestic violence treatment purposes. The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs. The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including but not limited to: Current and past violence history; a lethality risk assessment; history of treatment from past domestic violence perpetrator treatment programs; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department of social and health services by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may

be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence. If the perpetrator or the victim has a minor child, treatment must specifically include education regarding the effects of domestic violence on children, such as the emotional impacts of domestic violence on children and the long-term consequences that exposure to incidents of domestic violence may have on children.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department of social and health services, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department of social and health services may adopt rules and establish fees as necessary to implement this section.

(9) The department of social and health services may conduct on-site monitoring visits as part of its plan for certifying domestic violence perpetrator programs and monitoring implementation of the rules adopted by the secretary of the department of social and health services to determine compliance with the minimum qualifications for domestic violence perpetrator programs. The applicant or certified domestic violence perpetrator program shall cooperate fully with the department of social and health services in the monitoring visit and provide all program and management records requested by the department of social and health services to determine the program's compliance with the minimum certification qualifications and rules adopted by the department of social and health services. [2019 c 470 § 5; 2017 3rd sp.s. c 6 § 334; 2010 c 274 § 501; 1999 c 147 § 1; 1991 c 301 § 7. Formerly RCW 26.50.150.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Intent—2010 c 274: See note following RCW 10.31.100.

Finding—1991 c 301: See note following RCW 10.99.020.

43.20A.760 Community and technical college students' eligibility for the Washington basic food program.

(1)(a) For the purposes of community and technical college students' eligibility for the Washington basic food program, the department shall, in consultation with the state board for community and technical colleges, identify educational programs at the community and technical colleges that would meet the requirements of state-approved employment and training programs.

(b) In identifying educational programs, the department must consider science, technology, engineering, and mathe-

matics programs and must be as inclusive as possible of other programs.

(c) The department shall maintain and regularly update a list of identified programs in accordance with 7 C.F.R. Sec. 273.5(b)(11), which provides that a student is eligible for an exemption from eligibility rules if the student's attendance can be described as part of a program to increase the student's employability.

(d) For the purposes of this section, and to the extent allowed by federal law, a student shall be anticipating participation through a work-study program if he or she can reasonably expect or foresee being assigned work-study employment. For the purposes of this subsection: "Anticipation [Anticipating] participation" means a student has received approval of work-study as part of a financial aid package and has yet to receive notice from the institution of higher education that he or she has been denied participation in work-study; and "work-study" means the program created in chapter 28B.12 RCW.

(e) The department shall coordinate with the state board of [for] community and technical colleges and the Washington state student achievement council to identify options that could confer categorical eligibility for students who receive state need grants that are funded through temporary assistance for needy families federal or state maintenance of effort dollars. By January 1, 2020, the department must provide a report to the appropriate committees of the legislature that identifies federal assistance options for state need grant recipients.

(2) If the United States department of agriculture requires federal approval of what constitutes state-approved employment and training programs for the purposes of basic food eligibility, the department shall seek federal approval. [2019 c 407 § 4.]

Findings—Intent—Conflict with federal requirements—2019 c 407: See notes following RCW 28B.50.295.

43.20A.765 Mental health first aid training for teachers and educational staff. Subject to appropriation for this specific purpose, the department shall provide funds for mental health first aid training targeted at teachers and educational staff. The training will follow the model developed by the department of psychology in Melbourne, Australia. Instruction provided will describe common mental disorders that arise in youth, their possible causes and risk factors, the availability of evidence-based medical, psychological, and alternative treatments, processes for making referrals for behavioral health services, and methods to effectively render assistance in both initial intervention and crisis situations. The department shall collaborate with the office of the superintendent of public instruction to identify sites and methods of instruction that leverage local resources to the extent possible for the purpose of making the mental health first aid training broadly available. [2013 c 197 § 9.]

Finding—Intent—2013 c 197: "(1) The legislature finds that a lack of information about mental health problems among the general public leads to stigmatizing attitudes and prevents people from seeking help early and seeking the best sort of help. It also prevents people from providing support to family members, friends, and colleagues because they might not know what to do. This lack of knowledge about mental health problems limits the initial accessibility of evidence-based treatments and leads to a lack of support for

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people with a mental disorder from family, friends, and other members of the community.

(2) The focus on training for teachers and educational staff is intended to provide opportunities for early intervention when the first signs of developing mental illness may be recognized in children, teens, and young adults, so that appropriate referrals may be made to evidence-based behavioral health services." [2013 c 197 § 8.]

Findings—Intent—2013 c 197: See note following RCW 28A.410.226.

Civil liability—2013 c 197: See RCW 28A.310.501.

43.20A.770 Administration of statutes applicable to runaway youth, at-risk youth, and families in conflict—Consistency required. The department shall ensure that the administration of chapter 13.32A RCW and applicable portions of chapter 74.13 RCW relating to runaway youth, at-risk youth, and families in conflict is consistent in all areas of the state and in accordance with statutory requirements. [1991 c 364 § 6.]

Additional notes found at www.leg.wa.gov

43.20A.790 Homeless families with children—Shelter and housing services. (1) The department shall collaborate with the *department of community, trade, and economic development in the development of the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650, which designates the *department of community, trade, and economic development as the state agency with primary responsibility for providing shelter and housing services to homeless families with children. In fulfilling its responsibilities to collaborate with the *department of community, trade, and economic development pursuant to RCW 43.63A.650, the department shall develop, administer, supervise, and monitor its portion of the plan. The department's portion of the plan shall contain at least the following elements:

(a) Coordination or linkage of services with shelter and housing;

(b) Accommodation and addressing the needs of homeless families in the design and administration of department programs;

(c) Participation of the department's local offices in the identification, assistance, and referral of homeless families; and

(d) Ongoing monitoring of the efficiency and effectiveness of the plan's design and implementation.

(2) The department shall include community organizations involved in the delivery of services to homeless families with children, and experts in the development and ongoing evaluation of the plan.

(3) The duties under this section shall be implemented within amounts appropriated for that specific purpose by the legislature in the operating and capital budgets. [1999 c 267 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—1999 c 267: "The legislature finds that homelessness for families with children is a serious, widespread problem that has a devastating effect on children, including significant adverse effects upon their growth and development. Planning for and serving the shelter and housing needs of homeless families with children has been and continues to be a responsibility of the *department of community, trade, and economic development. The legislature further finds that the department of social and health services also plays an important role in addressing the service needs of

homeless families with children. In order to adequately and effectively address the complex issues confronting homeless families with children, planning for, implementing, and evaluating such services must be a collaborative effort between the *department of community, trade, and economic development and the department of social and health services, other local, state, and federal agencies, and community organizations. It is the intent of the legislature that the *department of community, trade, and economic development and the department of social and health services jointly present the plan to the appropriate committees of the legislature as required in section 3 of this act. It is the intent of the legislature that children should not be placed or retained in the foster care system if family homelessness is the primary reason for placement or the continuation of their placement. It is the further intent of the legislature that services to homeless families with children shall be provided within funds appropriated for that specific purpose by the legislature in the operating and capital budgets. Nothing in this act is intended to prevent the court's review of the plan developed by the department of social and health services and the *department of community, trade, and economic development under *Washington State Coalition for the Homeless v. Department of Social and Health Services*, King County Superior Court No. 91-2-15889-4. However, it is the intent of the legislature that the court's review in that proceeding be confined solely to review of the plan submitted under the order of February 4, 1998. Nothing in sections 1 through 10 of this act is intended to grant the court in this proceeding continuing review over the department of social and health services after July 25, 1999." [1999 c 267 § 1.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.20A.800 Vision services for the homeless—Coordination. The secretary of the department of social and health services shall coordinate the efforts of nonprofit agencies working with the homeless, the Washington academy of eye physicians and surgeons, the Washington optometric association, and the opticians association of Washington to deliver vision services to the homeless free of charge. The secretary shall enter into agreements identifying cooperating agencies and the circumstances under which specified services will be delivered. [1993 c 96 § 2.]

Findings—1993 c 96: "The legislature finds that many homeless people in the state of Washington have impaired eyesight that reduces their chances of obtaining employment or training for employment. The legislature finds that it is in the public interest to facilitate ophthalmologists, optometrists, and opticians in providing free vision services to homeless people of the state." [1993 c 96 § 1.]

43.20A.810 Vision services for the homeless—Funding. To the extent consistent with the department's budget, the secretary shall pay for the eyeglasses hardware prescribed and dispensed pursuant to the program set up in RCW 43.20A.800 through 43.20A.840. The secretary shall also attempt to obtain private sector funding for this program. [1993 c 96 § 3.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.820 Vision services for the homeless—Use of used eyeglass frames by providers. Ophthalmologists, optometrists, and dispensing opticians may utilize used eyeglass frames obtained through donations to this program. [1993 c 96 § 4.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.830 Vision services for the homeless—Provider liability. An ophthalmologist, optometrist, or dispensing optician who provides:

- (1) Free vision services; or

- (2) Eyeglasses, or any part thereof, including used frames, at or below retail cost to homeless people in the state of Washington

and who is not reimbursed for such services or eyeglasses as allowed for in RCW 43.20A.840, is not liable for civil damages for injury to a homeless person resulting from any act or omission in providing such services or eyeglasses, other than an act or omission constituting gross negligence or intentional conduct. [1993 c 96 § 5.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.840 Vision services for the homeless—Third party payers. Nothing in RCW 43.20A.800 through 43.20A.840 shall prevent ophthalmologists, optometrists, or dispensing opticians from collecting for either their goods or services, or both from third-party payers covering the goods or services for homeless persons. [1993 c 96 § 6.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.845 Vision services for the homeless—Program name. The program created in RCW 43.20A.800 through 43.20A.840 shall be known as the eye care for the homeless program in Washington. [1993 c 96 § 7.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.865 Secretary to enter into agreements with health care authority—Division of responsibilities. The secretary shall enter into agreements with the director of the health care authority, in his or her capacity as the director of the designated single state agency to administer medical services programs under Titles XIX and XXI of the social security act, to establish the division of responsibilities between the agencies with respect to mental health, chemical dependency, and long-term care services, including services for people with developmental disabilities. Except to the extent expressly authorized in the omnibus operating budget or other legislative act and where necessary to improve coordination of care for individual clients, nothing in this section or in section 116, chapter 15, Laws of 2011 1st sp. sess. shall be construed as authorizing the secretary or the director to transfer funds appropriated to one agency or program in the omnibus operating budget to another agency or program. [2011 1st sp.s. c 15 § 123.]

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

43.20A.875 Employee incentive program pilot—WorkFirst program. No later than January 1, 2012, the department shall establish an employee incentive program pilot for those employees who work directly with participants in the WorkFirst program. The pilot shall provide for eight hours of paid annual leave per year, in addition to the annual leave the employee normally accrues, for those employees who assist participants in meeting certain outcomes to be established by the department. The outcomes established must be of significance for the participant and can include achieving unsubsidized employment or the removal of a significant barrier to unsubsidized employment. The department shall report to the legislature by January 1, 2013, on the implementation of the pilot project, including how many

employees received paid annual leave, what outcomes were achieved, and the savings associated with the achievement of the outcomes. [2011 1st sp.s. c 42 § 27.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

43.20A.880 Training competencies and learning outcomes. The department shall publish its final basic and specialty training competencies and learning outcomes as required by chapter 121, Laws of 2000 no later than June 1, 2002. [2002 c 233 § 2.]

Additional notes found at www.leg.wa.gov

43.20A.885 Dementia action collaborative. (Expires June 30, 2028.) (1) The dementia action collaborative is established with members as provided in this subsection.

(a) The governor shall appoint the following members, and may appoint additional members at the governor's discretion:

- (i) A representative of the governor's office;
- (ii) A representative and an alternate from the department in the aging and long-term support administration;
- (iii) A representative and an alternate from the department in the developmental disabilities administration;
- (iv) A representative and an alternate from the department of health;
- (v) A representative and an alternate from the health care authority;
- (vi) A representative and an alternate from the office of the state long-term care ombuds;
- (vii) At least one person with Alzheimer's disease or another dementia;
- (viii) A caregiver of a person with Alzheimer's disease or another dementia;
- (ix) A representative of the University of Washington's memory and brain wellness center;
- (x) A representative of an organization representing area agencies on aging;
- (xi) A representative of an association representing long-term care facilities in Washington;
- (xii) A representative of an association representing physicians in Washington;
- (xiii) A representative of a Washington-based organization of volunteers, family, and friends of those affected by Alzheimer's disease and other dementias;
- (xiv) A representative of an Alzheimer's advocacy organization;
- (xv) An attorney who specializes in elder law;
- (xvi) An Alzheimer's disease researcher;
- (xvii) A representative of an organization representing emergency medical service providers in Washington;
- (xviii) An expert in workforce development;
- (xix) A representative of the Washington state council on aging;
- (xx) A representative of the governor's office of Indian affairs;
- (xxi) A licensed behavioral health provider with clinical expertise in Alzheimer's disease or other dementias;
- (xxii) A representative of a health care organization that primarily serves people of color, including seniors; and

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(xxiii) A nurse with expertise in serving individuals with Alzheimer's disease or other dementias.

(b) In appointing members to the dementia action collaborative, the governor shall give priority to persons who had previously served on the Alzheimer's disease working group established pursuant to chapter 89 (Senate Bill No. 6124), Laws of 2014, and its successor work groups.

(2)(a) The secretary or the secretary's designee shall convene the dementia action collaborative and submit all required reports. The secretary or the secretary's designee shall serve as the cochair with either the member representing an Alzheimer's disease advocacy organization or the member representing the Washington-based organization of volunteers, family, and friends of those affected by Alzheimer's disease and other dementias.

(b) The department shall provide any necessary administrative support to the dementia action collaborative.

(c) Meetings of the dementia action collaborative must be open to the public. At least one meeting each year must accept comments on the dementia action collaborative's proposed recommendations from members of the public, including comments from persons and families affected by Alzheimer's disease or other dementias. The department must use technological means, such as web casts, to assure public participation.

(3)(a) The dementia action collaborative must assess the current and future impacts of Alzheimer's disease and other dementias on Washington residents, including:

- (i) Examining progress in implementing the Washington state Alzheimer's plan adopted in 2016;
- (ii) Assessing available services and resources for serving persons with Alzheimer's disease and other dementias, as well as their families and caregivers;
- (iii) Examining and developing strategies to rectify disparate effects of Alzheimer's disease and other dementias on people of color; and
- (iv) Developing a strategy to mobilize a state response to this public health crisis.

(b) In addition to the activities in (a) of this subsection, the dementia action collaborative must review and revise the Washington state Alzheimer's plan adopted in 2016, and any subsequent revisions to that plan. Revisions to the plan must evaluate and address:

- (i) Population trends related to Alzheimer's disease and other dementias, including:
 - (A) Demographic information related to Washington residents living with Alzheimer's disease or other dementias, including average age, average age at first diagnosis, gender, race, and comorbidities; and
 - (B) Disparities in the prevalence of Alzheimer's disease and other dementias between different racial and ethnic populations;
- (ii) Existing services, resources, and health care system capacity, including:
 - (A) The types, cost, and availability of dementia services, medicaid reimbursement rates for dementia services, and the effect of medicaid reimbursement rates on the availability of dementia services;
 - (B) Dementia-specific training requirements for long-term services and supports staff;

(C) The needs of public safety and law enforcement to respond to persons with Alzheimer's disease or other dementias;

(D) The availability of home and community-based resources, including respite care and other services to assist families, for persons with Alzheimer's disease or other dementias;

(E) Availability of long-term dementia care beds, regardless of payer;

(F) State funding and Alzheimer's disease research through Washington universities and other resources; and

(G) Advances in knowledge regarding brain health, dementia, and risk reduction related to Alzheimer's disease and other dementias since the adoption of the Washington state Alzheimer's plan established in 2016.

(4) The department must submit a report of the dementia action collaborative's findings and recommendations to the governor and the legislature in the form of an updated Washington state Alzheimer's plan no later than October 1, 2023. The department must submit annual updates and recommendations of the dementia action collaborative for legislative and executive branch agency action to the governor and the legislature each October 1st, beginning October 1, 2024.

(5) This section expires June 30, 2028. [2022 c 120 § 2.]

Findings—2022 c 120: "The legislature finds that:

(1) In 2020, an estimated 120,000 Washingtonians age 65 and older were living with Alzheimer's disease or another dementia and the number is expected to rise to 140,000 by 2025;

(2) Dementia affects the whole family in many ways, including pulling family members, most often women, out of the workforce to care for their loved ones with the disease;

(3) There are an estimated 295,000 unpaid caregivers in Washington providing 426,000,000 total hours of unpaid care annually;

(4) The legislature authorized the preparation of the first Washington state plan to address Alzheimer's disease and other dementias in 2016; and

(5) There is great value in continuing to improve awareness and services for individuals living with Alzheimer's disease and other dementias, and reestablishing the formal dementia action collaborative to update the state plan and make recommendations is essential." [2022 c 120 § 1.]

43.20A.930 Effective date—Severability—1970 ex.s. c 18. See notes following RCW 43.20A.010.

Chapter 43.20B RCW

REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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GENERAL PROVISIONS

43.20B.010 Definitions. The definitions in this section apply throughout this chapter:

- (1) "Department" means the department of social and health services.
- (2) "Secretary" means the secretary of the department of social and health services.
- (3) "License" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.
- (4) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.
- (5) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute. [1987 c 75 § 42.]

43.20B.020 Fees for services—Department of health and department of social and health services. The department of social and health services and the department of health are authorized to charge fees for services provided unless otherwise prohibited by law. The fees may be sufficient to cover the full cost of the service provided if practical or may be charged on an ability-to-pay basis if practical. This section does not supersede other statutory authority enabling the assessment of fees by the departments. Whenever the department of social and health services is authorized by law to collect total or partial reimbursement for the cost of its providing care of or exercising custody over any person, the department shall collect the reimbursement to the extent practical. [1991 c 3 § 295; 1981 1st ex.s. c 6 § 25. Formerly RCW 43.20A.670.]

Additional notes found at www.leg.wa.gov

43.20B.030 Overpayments and debts due the department—Time limit—Write-offs and compromises—Waivers. (1) Except as otherwise provided by law, including subsection (2) of this section, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery action in a court of law or unless an administrative

remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

(2) There will be no collection of debts due the department after the expiration of twenty years from the date a lien is recorded pursuant to RCW 43.20B.080.

(3) The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts.

(4) Notwithstanding the requirements of RCW 43.20B.630, 43.20B.635, 43.20B.640, and 43.20B.645, the department may waive all efforts to collect overpayments from a client when the department determines that the elements of equitable estoppel as set forth in WAC 388-02-0495, as it existed on January 1, 2012, are met. [2012 c 258 § 1; 2005 c 292 § 5; 2003 c 207 § 1; 1997 c 130 § 5; 1989 c 78 § 4; 1987 c 283 § 6; 1979 c 141 § 308; 1965 ex.s. c 91 § 2. Formerly RCW 74.04.306.]

Conflict with federal requirements—2012 c 258: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2012 c 258 § 2.]

Additional notes found at www.leg.wa.gov

43.20B.040 Chapter does not apply where another party liable—Statement of lien—Form. The form of the lien in RCW 43.20B.060 shall be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Department of Social and Health Services, has rendered assistance or provided residential care to, a person who was injured on or about the day of in the county of state of, and the said department hereby asserts a lien, to the extent provided in RCW 43.20B.060, for the amount of such assistance or residential care, upon any sum due and owing (name of injured person) from, alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES

By: (Title)

STATE OF WASHINGTON

COUNTY OF

ss.

I,, being first duly sworn, on oath state: That I am (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

.....
Signed and sworn to or affirmed before me this
day of, (year)
by
(name of person making statement).

(Seal or stamp)

.....
Notary Public in and for the State
of Washington
My appointment expires:

[2016 c 202 § 33; 1990 c 100 § 3; 1979 c 141 § 341; 1969 ex.s. c 173 § 9. Formerly RCW 74.09.182.]

43.20B.050 Liens—Compromise—Settlement or judgment. (1) No settlement made by and between the recipient and tort feisor and/or insurer shall discharge or otherwise compromise the lien created in RCW 43.20B.060 without the express written consent of the secretary. Discretion to compromise such liens rests solely with the secretary or the secretary's designee.

(2) No settlement or judgment shall be entered purporting to compromise the lien created by RCW 43.20B.060 without the express written consent of the secretary or the secretary's designee. [1990 c 100 § 4; 1969 ex.s. c 173 § 12. Formerly RCW 74.09.186.]

Additional notes found at www.leg.wa.gov

43.20B.060 Reimbursement for medical care or residential care—Lien—Subrogation—Delegation of lien and subrogation rights. (1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient's rights against a tort feisor or the tort feisor's insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tort feisor or the tort feisor's insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tort feisor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department's discretion, such alternate filing or service is necessary to secure the department's interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tort feisor or insurer of the tort feisor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing cov-

erage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys' fees and costs.

(a) The determination of the proportionate share to be borne by the department shall be based upon:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(b) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(c) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

(5) The rights and remedies provided to the department in this section to secure reimbursement for assistance, including the department's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care system may enforce all rights and remedies delegated to it by the department to secure and recover assistance provided under a managed health care system consistent with its agreement with the department. [1997 c 236 § 2; 1990 c 100 § 7.]

Additional notes found at www.leg.wa.gov

43.20B.070 Torts committed against recipients of state assistance—Duties of attorney representing recipient—Trust account for departmental lien. (1) An attorney representing a person who, as a result of injuries or illness sustained through the negligence or wrong of another, has received, is receiving, or has applied to receive assistance under chapter 74.09 RCW, or residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, shall:

(a) Notify the department at the time of filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting a settlement offer from the tort feisor or the tort feisor's insurer, or both; and

(b) Give the department thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or recipient to recover damages for such injuries or illness.

(2) The proceeds from any recovery made pursuant to any action or claim described in RCW 43.20B.060 that is necessary to fully satisfy the department's lien against recov-

ery shall be placed in a trust account or in the registry of the court until the department's lien is satisfied. [1999 c 55 § 1; 1990 c 100 § 8.]

Additional notes found at www.leg.wa.gov

43.20B.080 Recovery for paid medical assistance—Rules—Disclosure of estate recovery costs, terms, and conditions.

(1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p. The department shall adopt a rule providing for prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual's estate, and from nonprobate assets of the individual as defined by RCW 11.02.005, but only for medical assistance consisting of nursing facility services, home and community-based services, other services that the department determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, shall be undertaken as soon as practicable, consistent with 42 U.S.C. Sec. 1396p.

(4) The department shall apply the medical assistance estate recovery law as it existed on the date that benefits were received when calculating an estate's liability to reimburse the department for those benefits.

(5)(a) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship. The department shall recognize an undue hardship for a surviving domestic partner whenever recovery would not have been permitted if he or she had been a surviving spouse. The department is not authorized to pursue recovery under such circumstances.

(b) Recovery of medical assistance from a recipient's estate shall not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

(6) A lien authorized under this section relates back to attach to any real property that the decedent had an ownership interest in immediately before death and is effective as of that date or date of recording, whichever is earlier.

(7) The department may enforce a lien authorized under this section against a decedent's life estate or joint tenancy interest in real property held by the decedent immediately prior to his or her death. Such a lien enforced under this subsection shall not end and shall continue as provided in this subsection until the department's lien has been satisfied.

(a) The value of the life estate subject to the lien shall be the value of the decedent's interest in the property subject to the life estate immediately prior to the decedent's death.

(b) The value of the joint tenancy interest subject to the lien shall be the value of the decedent's fractional interest the recipient would have owned in the jointly held interest in the property had the recipient and the surviving joint tenants held

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title to the property as tenants in common on the date of the recipient's death.

(c) The department may not enforce the lien provided by this subsection against a bona fide purchaser or encumbrancer that obtains an interest in the property after the death of the recipient and before the department records either its lien or the request for notice of transfer or encumbrance as provided by RCW 43.20B.750.

(d) The department may not enforce a lien provided by this subsection against any property right that vested prior to July 1, 2005.

(8)(a) Subject to the requirements of 42 U.S.C. Sec. 1396p(a) and the conditions of this subsection (8), the department is authorized to file a lien against the property of an individual prior to his or her death, and to seek adjustment and recovery from the individual's estate or sale of the property subject to the lien, if:

(i) The individual is an inpatient in a nursing facility, intermediate care facility for persons with intellectual disabilities, or other medical institution; and

(ii) The department has determined after notice and opportunity for a hearing that the individual cannot reasonably be expected to be discharged from the medical institution and to return home.

(b) If the individual is discharged from the medical facility and returns home, the department shall dissolve the lien.

(9) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section.

(10) It is the responsibility of the department to fully disclose in advance verbally and in writing, in easy to understand language, the terms and conditions of estate recovery to all persons offered long-term care services subject to recovery of payments.

(11) In disclosing estate recovery costs to potential clients, and to family members at the consent of the client, the department shall provide a written description of the community service options. [2010 c 94 § 12; 2008 c 6 § 302; 2005 c 292 § 6; 1999 c 354 § 2; 1997 c 392 § 302; 1995 1st sp.s. c 18 § 67; 1994 c 21 § 3.]

Purpose—2010 c 94: See note following RCW 44.04.280.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Legislative confirmation of effect of 1994 c 21: RCW 43.20B.090.

Additional notes found at www.leg.wa.gov

43.20B.090 Recovery for paid medical assistance and state-funded long-term care—Legislative intent—Legislative confirmation of effect of 1994 c 21.

(1) It is the intent of the legislature to ensure that needy individuals have access to basic long-term care without requiring them to sell their homes. In the face of rising medical costs and limited funding for social welfare programs, however, the state's medicaid and state-funded long-term care programs have placed an increasing financial burden on the state. By balancing the interests of individuals with immediate and future unmet medical care needs, surviving spouses and dependent children, adult nondependent children, more distant heirs, and the state, the estate recovery provisions of RCW 43.20B.080 and

74.39A.170 provide an equitable and reasonable method of easing the state's financial burden while ensuring the continued viability of the medicaid and state-funded long-term care programs.

(2) It is further the intent of the legislature to confirm that chapter 21, Laws of 1994, effective July 1, 1994, repealed and substantially reenacted the state's medicaid estate recovery laws and did not eliminate the department's authority to recover the cost of medical assistance paid prior to October 1, 1993, from the estates of deceased recipients regardless of whether they received benefits before, on, or after July 1, 1994. [1997 c 392 § 301.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

43.20B.095 Establishment and recovery of debts for the department of children, youth, and families. The department is authorized to establish and to recover debts for the department of children, youth, and families under this chapter pursuant to a contract between the department of children, youth, and families and the department that is entered into in compliance with the interlocal cooperation act, chapter 39.34 RCW. [2022 c 145 § 3; 2019 c 470 § 10.]

Purpose—Finding—2022 c 145: "(1) The purpose of this act is to repeal RCW 13.40.220 and 13.16.085, also known as the "parent pay" statutes, which require parents to pay a percentage of their gross income for the cost of their child's support, treatment, and confinement.

(2) The parent pay statutes essentially operate as a legal financial obligation assessed on parents for their child's incarceration. These laws disproportionately impact poorer parents and represent a dated policy and philosophy that is not aligned with current racial equity and social justice reforms. Pursuing these parents is unfair and takes advantage of people at their most vulnerable, undermining government credibility and the integrity of the legal process. Placing these parents in debt may also result in unstable home environments, deterring successful youth reentry back into the community.

(3) The legislature finds that eliminating parents' financial obligation to pay for their child's incarceration will advance racial equity and help to support a successful transition to adulthood for young people in juvenile detention and in the department's care." [2022 c 145 § 1.]

Application—2022 c 145: "(1) This act does not affect any moneys paid to the department of children, youth, and families or the courts before June 9, 2022. Any moneys already collected from a parent or other person legally obligated to care for and support a child under RCW 13.40.220 or 13.16.085 before June 9, 2022, will not be refunded to that person.

(2) On June 9, 2022:

(a) All pending actions or proceedings to recover debt owed by a parent or other person legally obligated to care for and support a child under RCW 13.40.220 or 13.16.085 shall be terminated with prejudice including, but not limited to, tax refund intercepts, federal and state benefit intercepts, wage garnishments, payment plans, and automatic bank account deductions;

(b) All outstanding debts or other obligations including, but not limited to, interest charges owed by a parent or other person legally obligated to care for and support a child under RCW 13.40.220 or 13.16.085 shall be canceled with prejudice, rendered null and void, and considered paid in full; and

(c) Any assignment of collection authority for debt owed under RCW 13.40.220 or 13.16.085 that was reported to a collection agency or out-of-state collection agency as defined in RCW 19.16.100 shall be recalled and terminated, and any outstanding debt shall be rendered null and void and considered paid in full.

(3) This act does not create a cause of action against the state of Washington." [2022 c 145 § 4.]

NONRESIDENTIAL FEES AND COSTS OF SERVICES

43.20B.110 License fees to be charged by secretary—Waiver—Review and comment. (1) The secretary shall charge fees to the licensee for obtaining a license. The secre-

tary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

(4) Fees associated with the licensing or regulation of health professions or health facilities administered by the department of health, shall be in accordance with RCW 43.70.110 and 43.70.250. [1991 c 3 § 296; 1989 1st ex.s. c 9 § 216; 1987 c 75 § 6; 1982 c 201 § 2. Formerly RCW 43.20A.055.]

Additional notes found at www.leg.wa.gov

43.20B.120 Funeral assistance—Lien against assets. If the department furnishes funeral assistance for deceased recipients under *RCW 74.08.120, the department shall have a lien against those assets left to a surviving spouse or minor children under those conditions defined in *RCW 74.08.120. The lien is valid for six years from the date of filing with the county auditor and has preference over the claims of all unsecured creditors. If the assets remain exempt or if no probate is commenced, the lien automatically terminates without further action six years after filing. [1987 c 75 § 45.]

*Reviser's note: RCW 74.08.120 was repealed by 1997 c 58 § 1002.

RESIDENTIAL SERVICES

43.20B.310 Residential care payments by families, when not collected. No payment may be collected by the department for residential care if the collection will reduce the income as defined in RCW 74.04.005 of the head of household and remaining dependents below one hundred percent of the need standard for temporary assistance for needy families. [1997 c 59 § 6; 1983 1st ex.s. c 41 § 34. Formerly RCW 74.04.780.]

Additional notes found at www.leg.wa.gov

43.20B.320 Mental illness—Treatment costs—Criminally insane—Liability. Patients hospitalized at state hospitals as criminally insane shall be responsible for payment of hospitalization charges. [1987 c 75 § 12; 1959 c 25 § 71.02.380. Prior: 1951 c 139 § 62. Formerly RCW 71.02.380.]

Criminally insane, reimbursement for costs: RCW 10.77.250.

43.20B.325 Mental illness—Hospitalization charges—How computed. Charges for hospitalization of patients in state hospitals are to be based on the actual cost of operating such hospitals for the previous year, taking into consideration the overhead expense of operating the hospital and expense of maintenance and repair, including in both cases all salaries of supervision and management as well as material and equipment actually used or expended in operation as computed by the department: PROVIDED, That a

schedule of differing hospitalization charges may be computed, including a schedule of charges for outpatient services, considering the costs of care, treatment and maintenance in accordance with the classification of mental illness, type and intensity of treatment rendered, which may vary among and within the several state hospitals. Costs of transportation shall be computed by the department. [1967 ex.s. c 127 § 1; 1959 c 25 § 71.02.410. Prior: 1951 c 139 § 52. Formerly RCW 71.02.410.]

43.20B.330 Mental illness—Treatment costs—Liability. Any person admitted or committed to a state hospital for the mentally ill, and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary, or his designee, in accordance with RCW 43.20B.325: PROVIDED, That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the age of eighteen years, shall be secondarily liable. [1987 c 75 § 13; 1971 ex.s. c 292 § 64; 1967 ex.s. c 127 § 4. Formerly RCW 71.02.411.]

Additional notes found at www.leg.wa.gov

43.20B.335 Mental illness—Treatment costs—Determination of ability to pay—Standards—Rules and regulations. The department is authorized to investigate the financial condition of each person liable under the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or charges for outpatient services, in accordance with the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard. Such factors and circumstances shall include judgments owed by the person to any victim of an act that would have resulted in criminal conviction of the patient but for a finding of criminal insanity. A victim shall include a personal representative of an estate who has obtained judgment for wrongful death against the criminally insane patient.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 43.20B.325, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. [1996 c 125 § 2; 1987 c 75 § 14; 1979 c 141 § 126; 1967 ex.s. c 127 § 5. Formerly RCW 71.02.412.]

Findings—Purpose—1996 c 125: "The legislature finds that laws and regulations relating to the rights of the state to collection from criminally insane patients for cost of their hospitalization are in need of clarification. The legislature previously directed the department of social and health ser-

vices to set standards regarding ability of such patients to pay that would include pertinent factors, as well as unusual and exceptional circumstances. The legislature finds that the regulations established by the department fail to take into account a factor and circumstance that should be paramount: Compensation owed by the patient to victims of his or her criminally insane conduct. The state public policy recognizes the due dignity and respect to be accorded victims of crime and the need for victims to be compensated, as set forth in Article I, section 35 of the state Constitution and in chapter 7.68 RCW. The legislature did not intend, in enacting RCW 43.20B.320, that the department attempt to obtain funds for hospitalization of criminally insane patients that would otherwise have compensated the victims of the patient. The purpose of chapter 125, Laws of 1996 is to clarify legislative intent and existing law." [1996 c 125 § 1.]

43.20B.340 Mental illness—Treatment costs—Notice and finding of responsibility—Period—Adjudicative proceedings. In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the charges for hospitalization, and/or charges for outpatient services, a notice and finding of responsibility shall be served on such person or the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay not to exceed the costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 43.20B.325, or as otherwise limited by the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. The responsibility for the payment to the department shall commence twenty-eight days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding may be filed with the secretary, or the secretary's designee within twenty-eight days from the date of service of such notice and finding of responsibility. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [1989 c 175 § 98; 1987 c 75 § 15; 1985 c 245 § 3; 1981 c 67 § 33; 1971 c 81 § 133; 1969 ex.s. c 268 § 1; 1967 ex.s. c 127 § 6. Formerly RCW 71.02.413.]

Additional notes found at www.leg.wa.gov

43.20B.345 Mental illness—Treatment costs—Judgment for accrued amounts. Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the secretary enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization,

and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court; except, such judgment shall not be the subject of collection by the department unless and until any outstanding judgment for a victim referenced in RCW 43.20B.335 has been fully satisfied. [1996 c 125 § 3; 1987 c 75 § 16; 1979 c 141 § 127; 1967 ex.s. c 127 § 7. Formerly RCW 71.02.414.]

Findings—Purpose—1996 c 125: See note following RCW 43.20B.335.

43.20B.347 Mental illness—Treatment costs—Lien against real and personal property. Whenever a notice and finding of responsibility, or appeal therefrom, has become final, the department may file a lien against the real and personal property of all persons found financially responsible under RCW 43.20B.330 with the county auditor of the county where the persons reside or own property. [1993 c 272 § 1.]

Additional notes found at www.leg.wa.gov

43.20B.350 Mental illness—Treatment costs—Modification or vacation of findings of responsibility. The secretary, or the secretary's designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the secretary, or the secretary's designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility. [1987 c 75 § 17; 1967 ex.s. c 127 § 8. Formerly RCW 71.02.415.]

43.20B.355 Mental illness—Hospitalization charges—Due date—Collection. Hospitalization charges are payable on the tenth day of each calendar month, for services rendered during the preceding month, and the department may make all necessary rules and regulations relative to the billing and collection of such charges. [1967 ex.s. c 127 § 2; 1959 c 25 § 71.02.320. Prior: 1951 c 139 § 56. Formerly RCW 71.02.320.]

43.20B.360 Mental illness—Hospitalization charges—Collection—Statutes of limitation. No statutes of limitations shall run against the state of Washington for hospitalization charges: PROVIDED, HOWEVER, That periods of limitations for the filing of creditors' claims against probate and guardianship estates shall apply against such claims. [1959 c 25 § 71.02.360. Prior: 1951 c 139 § 61. Formerly RCW 71.02.360.]

43.20B.370 Mental illness—Hospitalization charges—Collection—Prosecuting attorneys to assist. The prosecuting attorneys of the various counties shall assist the department in the collection of hospitalization charges.

[1959 c 25 § 71.02.370. Prior: 1951 c 139 § 64. Formerly RCW 71.02.370.]

43.20B.410 Residential habilitation centers—Liability for costs of services—Declaration of purpose. The purpose of RCW 43.20B.410 through 43.20B.455 is to place financial responsibility for cost of care, support and treatment upon those residents of residential habilitation centers operated under chapter 71A.20 RCW who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby. [1988 c 176 § 902; 1987 c 75 § 23; 1979 c 141 § 237; 1967 c 141 § 1. Formerly RCW 72.33.650.]

Additional notes found at www.leg.wa.gov

43.20B.415 State residential schools—Liability for costs of services—Limitation. The estates of all mentally or physically deficient persons who have been admitted to the state residential schools listed in *RCW 72.33.030 either by application of their parents or guardian or by commitment of court, or who may hereafter be admitted or committed to such institutions, shall be liable for their per capita costs of care, support and treatment: PROVIDED, That the estate funds may not be reduced as a result of such liability below an amount as set forth in *RCW 72.33.180. [1971 ex.s. c 118 § 2; 1967 c 141 § 2. Formerly RCW 72.33.655.]

*Reviser's note: RCW 72.33.030 and 72.33.180 were repealed by 1988 c 176 § 1007. See Title 71A RCW. The term "residential schools" was changed to "residential habilitation centers" by 1988 c 176.

Additional notes found at www.leg.wa.gov

43.20B.420 Residential habilitation centers—Determination of costs of services—Establishment of rates—Collection. The charges for services as provided in RCW 43.20B.425 shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating each of the residential habilitation centers for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.05 RCW. The department shall be charged with the duty of collection of charges incurred under RCW 43.20B.410 through 43.20B.455, which may be enforced by civil action instituted by the attorney general within or without the state. [1988 c 176 § 903; 1987 c 75 § 24; 1984 c 200 § 1; 1979 c 141 § 238; 1967 c 141 § 3. Formerly RCW 72.33.660.]

Additional notes found at www.leg.wa.gov

43.20B.425 Residential habilitation centers—Costs of services—Investigation and determination of ability to pay—Exemptions. The department shall investigate and determine the assets of the estates of each resident of a residential habilitation center and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a residential habilitation center as determined by the procedure set forth in RCW 43.20B.420: PROVIDED, That the sum as set forth in RCW 71A.20.100 shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of the resident's estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants. [1988 c 176 § 904; 1987 c 75 § 25; 1971 ex.s. c 118 § 3; 1967 c 141 § 4. Formerly RCW 72.33.665.]

Additional notes found at www.leg.wa.gov

43.20B.430 Residential habilitation centers—Costs of services—Initial notice and finding of responsibility—Service—Adjudicative proceeding. In all cases where a determination is made that the estate of a resident of a residential habilitation center is able to pay all or any portion of the charges, an initial notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident. The initial notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 43.20B.420, and the responsibility for payment to the department shall commence twenty-eight days after service of such notice and finding of responsibility. Service of the initial notice shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school, within such twenty-eight day period. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [2017 c 269 § 3; 1989 c 175 § 99; 1988 c 176 § 905; 1987 c 75 § 26; 1985 c 245 § 6; 1982 c 189 § 7; 1979 c 141 § 239; 1970 ex.s. c 75 § 1; 1967 c 141 § 5. Formerly RCW 72.33.670.]

Additional notes found at www.leg.wa.gov

43.20B.435 State residential habilitation centers—Costs of services—Modification or vacation of initial finding of responsibility. The secretary, upon application of the guardian of the estate of the resident, and after investigation, or upon investigation without application, may, if satisfied of the financial ability or inability of such person to make payments in accordance with the initial finding of responsibility as provided for in RCW 43.20B.430, modify or vacate such initial finding of responsibility, and enter a new finding of responsibility. The secretary's determination to modify or vacate findings of responsibility shall be served by regular mail. A new finding of responsibility shall be appealable in the same manner and in accordance with the same procedure for appeals of initial findings of responsibility. [2017 c 269 § 4; 1979 c 141 § 240; 1967 c 141 § 7. Formerly RCW 72.33.680.]

Additional notes found at www.leg.wa.gov

43.20B.440 Residential habilitation centers—Costs of services—Charges payable in advance. The charges for care, support, maintenance and treatment of persons at residential habilitation centers as provided by RCW 43.20B.410 through 43.20B.455 shall be payable in advance on the first day of each and every month to the department. [1988 c 176 § 906; 1987 c 75 § 27; 1979 c 141 § 241; 1967 c 141 § 8. Formerly RCW 72.33.685.]

Additional notes found at www.leg.wa.gov

43.20B.445 Residential habilitation centers—Costs of services—Reimbursement from property subsequently acquired—Placement outside school—Liability after death of resident. The provisions of RCW 43.20B.410 through 43.20B.455 shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 43.20B.410 through 43.20B.455 for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 43.20B.430: PROVIDED, That the estate of any resident of a residential habilitation center shall not be liable for such reimbursement subsequent to termination of services for that resident at the residential habilitation center: PROVIDED FURTHER, That upon the death of any person while a resident in a residential habilitation center, the person's estate shall become liable to the same extent as the resident's liability on the date of death. [1988 c 176 § 907; 1987 c 75 § 28; 1979 c 141 § 242; 1967 c 141 § 9. Formerly RCW 72.33.690.]

Additional notes found at www.leg.wa.gov

43.20B.450 State residential habilitation centers—Costs of services—Liabilities created apply to care, support, and treatment after July 1, 1967. The liabilities created by RCW 43.20B.410 through 43.20B.455 shall apply to the care, support and treatment occurring after July 1, 1967. [1987 c 75 § 29; 1967 c 141 § 11. Formerly RCW 72.33.695.]

Additional notes found at www.leg.wa.gov

43.20B.455 Residential habilitation centers—Costs of services—Discretionary allowance in resident's fund.

Notwithstanding any other provision of RCW 43.20B.410 through 43.20B.455, the secretary may, if in the secretary's discretion any resident of a residential habilitation center can be terminated from receiving services at the habilitation center more rapidly and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 43.20B.415. [1988 c 176 § 908; 1987 c 75 § 30; 1979 c 141 § 243; 1967 c 141 § 12. Formerly RCW 72.33.700.]

Additional notes found at www.leg.wa.gov

43.20B.460 Guardianship fees and additional costs for incapacitated clients paying part of costs—Maximum amount—Rules. The department of social and health services shall establish by rule the maximum amount of guardianship fees and additional compensation for administrative costs that may be allowed by the court as compensation for a guardian or limited guardian of an incapacitated person who is a department of social and health services client residing in a nursing facility or in a residential or home setting and is required by the department of social and health services to contribute a portion of their income towards the cost of residential or supportive services. [1994 c 68 § 2.]

RECOVERY OF OVERPAYMENTS

43.20B.620 Overpayments of assistance—Lien against recipient's property—Recovery methods. Overpayments of public assistance or food stamps or food stamp benefits transferred electronically under RCW 74.04.300 shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

Debts due the state for overpayments of public assistance or food stamps or food stamp benefits transferred electronically may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, or order to withhold and deliver, or may be recovered by civil action. [1998 c 79 § 4; 1987 c 75 § 43.]

43.20B.630 Overpayments of assistance—Procedures—Adjudicative proceeding. (1) Any person who owes a debt to the state for an overpayment of public assistance and/or food stamps or food stamp benefits transferred electronically shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance and/or food stamps or benefits; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the over-

payment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance and/or food stamps or benefits or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering overpayments by deduction from subsequent assistance payments, not exceeding deductions as authorized under federal law with regard to financial assistance programs: PROVIDED, That subject to federal legal requirement, deductions shall not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the department or error on the part of the recipient without willful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) A current or former recipient who is aggrieved by a claim that he or she owes a debt for an overpayment of public assistance or food stamps or food stamp benefits transferred electronically has the right to an adjudicative proceeding pursuant to RCW 74.08.080. If no application is filed, the debt will be subject to collection action as authorized under this chapter. If a timely application is filed, the execution of collection action on the debt shall be stayed pending the final adjudicative order or termination of the debtor from public assistance and/or food stamps or food stamp benefits transferred electronically, whichever occurs later. [1998 c 79 § 5; 1989 c 175 § 100; 1982 c 201 § 18; 1981 c 163 § 1. Formerly RCW 74.04.700.]

Overpayments and debts due the state: RCW 74.04.300.

Additional notes found at www.leg.wa.gov

43.20B.635 Overpayments of assistance—Orders to withhold property of debtor—Procedures. (1) After service of a notice of debt for an overpayment as provided for in RCW 43.20B.630, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor.

(2)(a) The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors.

(b) The order to withhold and deliver shall be served by regular mail or, with a party's agreement, electronically.

(3)(a) Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(b) The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state.

(c) If any such person, firm, corporation, association, political subdivision, or department of the state possesses any

property which may be subject to the claim of the department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary.

(d) The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.

(e) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

(4)(a) The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address or, with a party's agreement serve the order upon the debtor electronically on or before the date of service of the order to withhold and deliver.

(b) The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service electronically, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy or serve the copy electronically, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy. [2017 c 269 § 5; 1990 c 100 § 1; 1987 c 75 § 37; 1981 c 163 § 2. Formerly RCW 74.04.710.]

43.20B.640 Overpayments of assistance—Failure to withhold property of debtor. If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in RCW 43.20B.635, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand

property distrained under RCW 43.20B.635, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees. [1987 c 75 § 38; 1981 c 163 § 3. Formerly RCW 74.04.720.]

43.20B.645 Overpayments of assistance—Assignment of earnings. Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of public assistance received as defined in RCW 74.04.300, shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by the secretary as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented to the employer by the secretary serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The secretary is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received. [1981 c 163 § 4. Formerly RCW 74.04.730.]

43.20B.660 Improper realty transfer—Suit to rescind—Recovery from recipient's estate. If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the department may request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate. [1987 c 75 § 46.]

43.20B.670 Excess property assistance program—Lien—Department as creditor. When the department provides grant assistance to persons who possess excess real property under *RCW 74.04.005(10)(f), the department may file a lien against, or otherwise perfect its interest in such real property as a condition of granting such assistance, and the department shall have the status of a secured creditor. [1985 c 245 § 10. Formerly RCW 74.04.007.]

***Reviser's note:** RCW 74.04.005 was amended by 1997 c 58 § 309, changing subsection (10)(f) to subsection (10)(g). RCW 74.04.005 was subsequently amended by 2010 1st sp.s. c 8 § 4, changing subsection (10)(g) to subsection (11)(g). RCW 74.04.005 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (11)(g) to subsection (13)(g).

43.20B.675 Vendor overpayments—Goods or services provided on or after July 1, 1998—Notice—Adjudicative proceeding—Enforcement—Collection—Rules. (1) When the department determines that a vendor was overpaid by the department for either goods or services, or both, provided to department clients, except nursing homes under chapter 74.46 RCW, the department will give written notice

to the vendor. The notice will include the amount of the overpayment, the basis for the claim, and the rights of the vendor under this section.

(2) The notice may be served upon the vendor in the manner prescribed for the service of a summons in civil action or be mailed to the vendor at the last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The vendor has the right to an adjudicative proceeding governed by the administrative procedure act, chapter 34.05 RCW, and the rules of the department. The vendor's application for an adjudicative proceeding must be in writing, state the basis for contesting the overpayment notice, and include a copy of the department's notice. The application must be served on and received by the department within twenty-eight days of the vendor's receipt of the notice of overpayment. The vendor must serve the department in a manner providing proof of receipt.

(4) Where an adjudicative proceeding has been requested, the presiding or reviewing office will determine the amount, if any, of the overpayment received by the vendor.

(5) If the vendor fails to attend or participate in the adjudicative proceeding, upon a showing of valid service, the presiding or reviewing officer may enter an administrative order declaring the amount claimed in the notice to be assessed against the vendor and subject to collection action by the department.

(6) Failure to make an application for an adjudicative proceeding within twenty-eight days of the date of notice will result in the establishment of a final debt against the vendor in the amount asserted by the department and that amount is subject to collection action. The department may also charge the vendor with any costs associated with the collection of any final overpayment or debt established against the vendor.

(7) The department may enforce a final overpayment or debt through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other collection action available to the department to satisfy the debt due.

(8) Debts determined under this chapter are subject to collection action without further necessity of action by a presiding or reviewing officer. The department may collect the debt in accordance with RCW 43.20B.635, 43.20B.640, and 43.20B.680. In addition, a vendor lien may be subject to distraint and seizure and sale in the same manner as prescribed for support liens in RCW 74.20A.130.

(9) Chapter 66, Laws of 1998 applies to overpayments for goods or services provided on or after July 1, 1998.

(10) The department may adopt rules consistent with this section. [1998 c 66 § 2.]

Findings—1998 c 66: "The legislature finds that more efficient and cost-effective means are available for the collection of vendor overpayments owed the state of Washington. The legislature further finds it desirable to provide vendors a uniform formal appeal process that will streamline the current process for both the department of social and health services and the vendor." [1998 c 66 § 1.]

43.20B.680 Vendor overpayments—Lien or other security—Setoff or recoupment—Exception. (1) The department may, at the secretary's discretion, secure the repayment of any outstanding overpayment, plus interest, if any, through the filing of a lien against the vendor's real prop-

erty, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the department, or by doing both.

(a) Any lien shall be effective from the date of filing for record with the county auditor of the county in which the property is located and the lien claim shall have preference over the claims of all unsecured creditors.

(b) The department shall review and determine the acceptability of all other forms of security.

(c) Any bond must be issued by a company licensed as a surety in the state of Washington.

(d) This subsection does not apply to nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW.

(2) The department may recover any overpayment, plus interest, if any, by setoff or recoupment against subsequent payments to the vendor. [1987 c 283 § 10.]

Additional notes found at www.leg.wa.gov

43.20B.685 Vendor overpayments—Liens—Duration—Enforcement. Liens created under RCW 43.20B.680 shall bind the affected property for a period of ten years after the lien has been recorded or ten years after the resolution of all good faith disputes as to the overpayment, whichever is later. Any civil action by the department to enforce such lien must be timely commenced before the ten-year period expires or the lien shall be released. A civil action to enforce such lien shall not be timely commenced unless the summons and complaint are filed within the ten-year period in a court having jurisdiction and service of the summons and complaint is made upon all parties in the manner prescribed by appropriate civil court rules. [1987 c 283 § 11.]

Additional notes found at www.leg.wa.gov

43.20B.688 Limitation on actions to enforce vendor overpayment debts. Any action to enforce a vendor overpayment debt shall be commenced within six years from the date of the department's notice to the vendor. [1987 c 283 § 15. Formerly RCW 43.20A.440.]

Vendor overpayments: RCW 43.20B.680 through 43.20B.695.

Additional notes found at www.leg.wa.gov

43.20B.690 Vendor overpayments—Remedies non-exclusive. The remedies under RCW 43.20B.680 and 43.20B.685 are nonexclusive and nothing contained in this chapter may be construed to impair or affect the right of the department to maintain a civil action or to pursue any other remedies available to it under the laws of this state to recover such debt. [1987 c 283 § 12.]

Additional notes found at www.leg.wa.gov

43.20B.695 Vendor overpayments—Interest—Exceptions. (1) Except as provided in subsection (4) of this section, vendors shall pay interest on overpayments at the rate of one percent per month or portion thereof. Where partial repayment of an overpayment is made, interest accrues on the remaining balance. Interest will not accrue when the overpayment occurred due to department error.

(2) If the overpayment is discovered by the vendor prior to discovery and notice by the department, the interest shall

begin accruing ninety days after the vendor notifies the department of such overpayment.

(3) If the overpayment is discovered by the department prior to discovery and notice by the vendor, the interest shall begin accruing thirty days after the date of notice by the department to the vendor.

(4) This section does not apply to:

(a) Interagency or intergovernmental transactions;

(b) Contracts for public works, goods and services procured for the exclusive use of the department, equipment, or travel; and

(c) Contracts entered into before September 1, 1979, for contracts with medical assistance funding, and August 23, 1983, for all other contracts. [2008 c 53 § 1; 1987 c 283 § 2; 1983 1st ex.s. c 41 § 17. Formerly RCW 43.20A.435.]

Additional notes found at www.leg.wa.gov

43.20B.710 Medical assistance—Improper transfer or assignment of resources—Penalty—Presumption, rebuttal—Attorney's fees. If cash or resources are improperly transferred or assigned under *RCW 74.09.538, a person who knowingly or willingly receives the assets for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to the applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney's fees. [1987 c 75 § 47.]

*Reviser's note: RCW 74.09.538 was repealed by 1989 c 87 § 11.

Transfer of spousal resources: RCW 74.09.530 through 74.09.595.

43.20B.720 Recipient receiving industrial insurance compensation—Subrogation rights of department—Lien—Withhold and deliver notice. (1) To avoid a duplicate payment of benefits, a recipient of public assistance from the department of social and health services is deemed to have subrogated the department to the recipient's right to recover temporary total disability compensation due to the recipient and the recipient's dependents under Title 51 RCW, to the extent of such assistance or compensation, whichever is less. However, the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred under Title 51 RCW by the recipient or the recipient's dependents.

(2) The department of social and health services may assert and enforce a lien and notice to withhold and deliver to secure reimbursement. The department shall identify in the lien and notice to withhold and deliver the recipient of public assistance and temporary total disability compensation and the amount claimed by the department. [1997 c 130 § 1; 1985 c 245 § 7; 1982 c 201 § 17; 1973 1st ex.s. c 102 § 1. Formerly RCW 74.04.530.]

43.20B.730 Recipient receiving industrial insurance compensation—Effective date of lien and notice—Service. The effective date of the lien and notice to withhold and deliver provided in RCW 43.20B.720 is the day that it is

received by the department of labor and industries or a self-insurer as defined in chapter 51.08 RCW. Service of the lien and notice to withhold and deliver may be made personally, by regular mail with postage prepaid, or by electronic means. A statement of lien and notice to withhold and deliver shall be mailed to the recipient at the recipient's last known address by certified mail, return receipt requested, no later than two business days after the department mails, delivers, or transmits the lien and notice to withhold and deliver to the department of labor and industries or a self-insurer. [1997 c 130 § 2; 1987 c 75 § 34; 1985 c 245 § 9; 1973 1st ex.s. c 102 § 3. Formerly RCW 74.04.550.]

43.20B.735 Recipient receiving industrial insurance compensation—Duty to withhold and deliver—Amount. The director of labor and industries or the director's designee, or a self-insurer as defined in chapter 51.08 RCW, following receipt of the lien and notice to withhold and deliver, shall deliver to the secretary of social and health services or the secretary's designee any temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver up to the amount claimed. The director of labor and industries or self-insurer shall withhold and deliver from funds currently in the director's or self-insurer's possession or from any funds that may at any time come into the director's or self-insurer's possession on account of temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver. [1997 c 130 § 3; 1973 1st ex.s. c 102 § 4. Formerly RCW 74.04.560.]

43.20B.740 Recipient receiving industrial insurance compensation—Adjudicative proceeding—Collection pending final order. A recipient feeling aggrieved by the action of the department of social and health services in recovering his or her temporary total disability compensation as provided in RCW 43.20B.720 through 43.20B.745 shall have the right to an adjudicative proceeding.

A recipient seeking an adjudicative proceeding shall file an application with the secretary within twenty-eight days after the statement of lien and notice to withhold and deliver was mailed to the recipient. If the recipient files an application more than twenty-eight days after, but within one year of, the date the statement of lien and notice to withhold and deliver was mailed, the recipient is entitled to a hearing if the recipient shows good cause for the recipient's failure to file a timely application. The filing of a late application does not affect prior collection action pending the final adjudicative order. Until good cause for failure to file a timely application is decided, the department may continue to collect under the lien and notice to withhold and deliver.

The proceeding shall be governed by chapter 34.05 RCW, the Administrative Procedure Act. [1997 c 130 § 4; 1989 c 175 § 101; 1987 c 75 § 35; 1973 1st ex.s. c 102 § 5. Formerly RCW 74.04.570.]

Additional notes found at www.leg.wa.gov

43.20B.745 Recipient receiving industrial insurance compensation—Application. RCW 43.20B.720 through 43.20B.745 shall not apply to persons whose eligibility for benefits under Title 51 RCW, is based upon an injury or ill-

ness occurring prior to July 1, 1972. [1987 c 75 § 36; 1973 1st ex.s. c 102 § 6. Formerly RCW 74.04.580.]

43.20B.750 Recipients holding title to real property or purchasing under land sales contracts—Recording request for notice or termination or request for notice of transfer or encumbrance of property—Notice and hearing—Rules. (1) When an individual receives medical assistance subject to recovery under this chapter and the individual is the holder of record title to real property or the purchaser under a land sale contract, the department of social and health services may present to the county auditor for recording in the deed and mortgage records of a county a request for notice of transfer or encumbrance of the real property. The department shall adopt a rule providing prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) The department shall present to the county auditor for recording a termination of request for notice of transfer or encumbrance when, in the judgment of the department, it is no longer necessary or appropriate for the department to monitor transfers or encumbrances related to the real property.

(3) The department shall adopt by rule a form for the request for notice of transfer or encumbrance and the termination of request for notice of transfer or encumbrance that, at a minimum:

(a) Contains the name of the public assistance recipient and a departmental case identifier or other appropriate information that links the individual who is the holder of record title to real property or the purchaser under a land sale contract to the individual's public assistance records;

(b) Contains the legal description of the real property;

(c) Contains a mailing address for the department to receive the notice of transfer or encumbrance; and

(d) Complies with the requirements for recording in RCW 36.18.010 for those forms intended to be recorded.

(4) The department shall pay the recording fee required by the county clerk under RCW 36.18.010.

(5) The request for notice of transfer or encumbrance described in this section does not affect title to real property and is not a lien on, encumbrance of, or other interest in the real property. [2005 c 292 § 1.]

CONSTRUCTION

43.20B.900 Savings—1987 c 75. The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 26, 1987. [1987 c 75 § 48.]

43.20B.902 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the

extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 106.]

Chapter 43.20C RCW

EVIDENCE-BASED AND RESEARCH-BASED JUVENILE PREVENTION AND INTERVENTION SERVICES

Sections

- 43.20C.005 Intent.
- 43.20C.010 Definitions.
- 43.20C.020 Evidence-based, research-based, and promising practices—Descriptive definitions—Inventory—Baseline assessment—Reports.
- 43.20C.030 Unified and coordinated case plans—Monitoring and quality control procedures—Quality control and fidelity of implementation.
- 43.20C.040 Federal matching funds—Training funds—Training provider.

43.20C.005 Intent. (1) The legislature intends that prevention and intervention services delivered to children and juveniles in the areas of mental health, child welfare, and juvenile justice be primarily evidence-based and research-based, and it is anticipated that such services will be provided in a manner that is culturally competent.

(2) The legislature also acknowledges that baseline information is not presently available regarding the extent to which evidence-based and research-based practices are presently available and in use in the areas of children's mental health, child welfare, and juvenile justice; the cost of those practices; and the most effective strategies and appropriate time frames for expecting their broader use. Thus, it would be wise to establish baseline data regarding the use and availability of evidence-based and research-based practices.

(3) It is the intent of the legislature that increased use of evidence-based and research-based practices be accomplished to the extent possible within existing resources by coordinating the purchase of evidence-based services, the development of a trained workforce, and the development of unified and coordinated case plans to provide treatment in a coordinated and consistent manner.

(4) The legislature recognizes that in order to effectively provide evidence-based and research-based practices, contractors should have a workforce trained in these programs, and outcomes from the use of these practices should be monitored. [2012 c 232 § 1.]

43.20C.010 Definitions. For the purposes of this chapter:

(1) "Contractors" does not include county probation staff that provide evidence-based or research-based programs.

(2) "Prevention and intervention services" means services and programs for children and youth and their families that are specifically directed to address behaviors that have resulted or may result in truancy, abuse or neglect, out-of-home placements, chemical dependency, substance abuse, sexual aggressiveness, or mental or emotional disorders. [2012 c 232 § 2.]

43.20C.020 Evidence-based, research-based, and promising practices—Descriptive definitions—Inventory—Baseline assessment—Reports. The department of social and health services shall accomplish the following in consultation and collaboration with the Washington state institute for public policy, the evidence-based practice institute at the University of Washington, a university-based child welfare partnership and research entity, other national experts in the delivery of evidence-based services, and organizations representing Washington practitioners:

(1) By September 30, 2012, the Washington state institute for public policy, the University of Washington evidence-based practice institute, in consultation with the department shall publish descriptive definitions of evidence-based, research-based, and promising practices in the areas of child welfare, juvenile rehabilitation, and children's mental health services.

(a) In addition to descriptive definitions, the Washington state institute for public policy and the University of Washington evidence-based practice institute must prepare an inventory of evidence-based, research-based, and promising practices for prevention and intervention services that will be used for the purpose of completing the baseline assessment described in subsection (2) of this section. The inventory shall be periodically updated as more practices are identified.

(b) In identifying evidence-based and research-based services, the Washington state institute for public policy and the University of Washington evidence-based practice institute must:

(i) Consider any available systemic evidence-based assessment of a program's efficacy and cost-effectiveness; and

(ii) Attempt to identify assessments that use valid and reliable evidence.

(c) Using state, federal, or private funds, the department shall prioritize the assessment of promising practices identified in (a) of this subsection with the goal of increasing the number of such practices that meet the standards for evidence-based and research-based practices.

(2) By June 30, 2013, the department and the health care authority shall complete a baseline assessment of utilization of evidence-based and research-based practices in the areas of child welfare, juvenile rehabilitation, and children's mental health services. The assessment must include prevention and intervention services provided through medicaid fee-for-service and healthy options managed care contracts. The assessment shall include estimates of:

(a) The number of children receiving each service;

(b) For juvenile rehabilitation and child welfare services, the total amount of state and federal funds expended on the service;

(c) For children's mental health services, the number and percentage of encounters using these services that are provided to children served by behavioral health organizations and children receiving mental health services through medicaid fee-for-service or healthy options;

(d) The relative availability of the service in the various regions of the state; and

(e) To the extent possible, the unmet need for each service.

(2022 Ed.)

(3)(a) By December 30, 2013, the department and the health care authority shall report to the governor and to the appropriate fiscal and policy committees of the legislature on recommended strategies, timelines, and costs for increasing the use of evidence-based and research-based practices. The report must distinguish between a reallocation of existing funding to support the recommended strategies and new funding needed to increase the use of the practices.

(b) The department shall provide updated recommendations to the governor and the legislature by December 30, 2014, and by December 30, 2015.

(4)(a) The report required under subsection (3) of this section must include recommendations for the reallocation of resources for evidence-based and research-based practices and substantial increases above the baseline assessment of the use of evidence-based and research-based practices for the 2015-2017 and the 2017-2019 biennia. The recommendations for increases shall be consistent with subsection (2) of this section.

(b) If the department or health care authority anticipates that it will not meet its recommended levels for an upcoming biennium as set forth in its report, it must report to the legislature by November 1st of the year preceding the biennium. The report shall include:

(i) The identified impediments to meeting the recommended levels;

(ii) The current and anticipated performance level; and

(iii) Strategies that will be undertaken to improve performance.

(5) Recommendations made pursuant to subsections (3) and (4) of this section must include strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments, experts within ethnically diverse communities, and community organizations that serve diverse communities. [2014 c 225 § 66; 2012 c 232 § 3.]

Effective date—2014 c 225: See note following RCW 71.24.016.

43.20C.030 Unified and coordinated case plans—Monitoring and quality control procedures—Quality control and fidelity of implementation. The department of social and health services, in consultation with a university-based evidence-based practice institute entity in Washington, the Washington partnership council on juvenile justice, the child mental health systems of care planning committee, the children, youth, and family advisory committee, the health care authority, the Washington state racial disproportionality advisory committee, a university-based child welfare research entity in Washington state, behavioral health administrative services organizations established in chapter 71.24 RCW, managed care organizations contracted with the authority under chapter 74.09 RCW, the Washington association of juvenile court administrators, and the Washington state institute for public policy, shall:

(1) Develop strategies to use unified and coordinated case plans for children, youth, and their families who are or are likely to be involved in multiple systems within the department;

(2) Use monitoring and quality control procedures designed to measure fidelity with evidence-based and research-based prevention and treatment programs; and

(3) Utilize any existing data reporting and system of quality management processes at the state and local level for monitoring the quality control and fidelity of the implementation of evidence-based and research-based practices. [2019 c 325 § 5011; 2014 c 225 § 67; 2012 c 232 § 4.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

43.20C.040 Federal matching funds—Training funds—Training provider. (1) The department of social and health services and the health care authority shall identify components of evidence-based practices for which federal matching funds might be claimed and seek such matching funds to support implementation of evidence-based practices.

(2) The department shall efficiently use funds to coordinate training in evidence-based and research-based practices across the programs areas of juvenile justice, children's mental health, and child welfare.

(3) Any child welfare training related to implementation of this chapter must be delivered by the University of Washington school of social work in coordination with the University of Washington evidence-based practice institute.

(4) Nothing in this chapter requires the department or the health care authority to:

(a) Take actions that are in conflict with presidential executive order 13175 or that adversely impact tribal-state consultation protocols or contractual relations; or

(b) Redirect funds in a manner that:

(i) Conflicts with the requirements of the department's section 1915(b) medicaid mental health waiver; or

(ii) Would substantially reduce federal medicaid funding for mental health services or impair access to appropriate and effective services for a substantial number of medicaid clients; or

(c) Undertake actions that, in the context of a lawsuit against the state, are inconsistent with the department's obligations or authority pursuant to a court order or agreement. [2012 c 232 § 5.]

Chapter 43.21A RCW

DEPARTMENT OF ECOLOGY

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Funding for radiation monitoring programs, department of ecology to seek: RCW 70A.388.130.

Metals mining and milling operations, department of ecology responsibilities: Chapter 78.56 RCW.

Minimum flows and levels—Departmental authority exclusive—Other recommendations considered: RCW 90.03.247.

43.21A.005 Intent—Public involvement and outreach. See RCW 43.20A.005.

43.21A.010 Legislative declaration of state policy on environment and utilization of natural resources. The legislature recognizes and declares it to be the policy of this state, that it is a fundamental and inalienable right of the people of the state of Washington to live in a healthful and pleasant environment and to benefit from the proper development and use of its natural resources. The legislature further recognizes that as the population of our state grows, the need to provide for our increasing industrial, agricultural, residential, social, recreational, economic and other needs will place an increasing responsibility on all segments of our society to plan, coordinate, restore and regulate the utilization of our natural resources in a manner that will protect and conserve our clean air, our pure and abundant waters, and the natural beauty of the state. [1970 ex.s. c 62 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.020 Purpose. In recognition of the responsibility of state government to carry out the policies set forth in RCW 43.21A.010, it is the purpose of this chapter to establish a single state agency with the authority to manage and develop our air and water resources in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. To this end a department of ecology is created by this chapter to undertake, in an integrated manner, the various water regulation, management, planning and development

programs now authorized to be performed by the department of water resources and the water pollution control commission, the air regulation and management program now performed by the state air pollution control board, the solid waste regulation and management program authorized to be performed by state government as provided by chapter 70A.205 RCW, and such other environmental, management protection and development programs as may be authorized by the legislature. [2020 c 20 § 1030; 1970 ex.s. c 62 § 2.]

43.21A.030 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology.
- (3) "Commission" means the ecological commission. [1970 ex.s. c 62 § 3.]

43.21A.040 Department of ecology—Created. There is created a department of state government to be known as the department of ecology. [1970 ex.s. c 62 § 4.]

43.21A.050 Department of ecology—Director—Appointment—Powers and duties—Salary—Temporary appointment when vacancy. The executive and administrative head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate. He or she shall have complete charge of and supervisory powers over the department. He or she shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position. [2009 c 549 § 5081; 1970 ex.s. c 62 § 5.]

43.21A.061 Powers and duties—Reclamation. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to the reclamation and development of arid, swamp, overflow, and logged-off lands in the state and such other duties as may be prescribed by law. [1987 c 109 § 26; 1965 c 8 § 43.21.110. Prior: 1921 c 7 § 70; RRS § 10828. Formerly RCW 43.21.110.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.064 Powers and duties—Water resources. Subject to RCW 43.21A.068, the director of the department of ecology shall have the following powers and duties:

(1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;

(2) Insofar as may be necessary to assure safety to life or property, the director shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and may require such necessary changes in the construction or maintenance of said works, to be made

from time to time, as will reasonably secure safety to life and property;

(3) The director shall regulate and control the diversion of water in accordance with the rights thereto;

(4) The director shall determine the discharge of streams and springs and other sources of water supply, and the capacities of lakes and of reservoirs whose waters are being or may be utilized for beneficial purposes;

(5) The director shall, if requested, provide assistance to an applicant for a water right in obtaining or developing an adequate and appropriate supply of water consistent with the land use permitted for the area in which the water is to be used and the population forecast for the area under RCW 43.62.035. If the applicant is a public water supply system, the supply being sought must be used in a manner consistent with applicable land use, watershed and water system plans, and the population forecast for that area provided under RCW 43.62.035;

(6) The director shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. The director shall keep a seal of the office, and all certificates covering any of the director's acts or the acts of the director's office, or the records and files of that office, under such seal, shall be taken as evidence thereof in all courts;

(7) The director shall render when required by the governor, a full written report of the office's work with such recommendations for legislation as the director deems advisable for the better control and development of the water resources of the state;

(8) The director and duly authorized deputies may administer oaths;

(9) The director shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(10) The director shall perform such other duties as may be prescribed by law. [1997 c 443 § 2; 1995 c 8 § 3; 1977 c 75 § 46; 1965 c 8 § 43.21.130. Prior: 1961 c 19 § 1; prior: (i) 1951 c 57 § 3; 1921 c 7 § 72; RRS § 10830. (ii) 1951 c 57 § 3; 1917 c 117 § 8; RRS § 7358. Formerly RCW 43.21.130.]

Finding—Intent—1997 c 443: "The legislature finds that there is a need for development of additional water resources to meet the forecasted population growth in the state. It is the intent of chapter 443, Laws of 1997 to direct the responsible agencies to assist applicants seeking a safe and reliable water source for their use. Providing this assistance for public water supply systems can be accomplished through assistance in the creation of municipal interties and transfers, additional storage capabilities, enhanced conservation efforts, and added efficiency standards for using existing supplies." [1997 c 443 § 1.]

Findings—1995 c 8: "The legislature finds and declares:

(1) The federal energy regulatory commission, under the federal power act, licenses hydropower projects in navigable waters and regularly and extensively inspects facilities for safety; and

(2) Nothing in this act alters or affects the department of ecology's authority to: (a) Participate in the federal process of licensing hydropower projects; or (b) ensure that hydropower projects comply with federal statutes such as the coastal zone management act and the clean water act and, subject to RCW 43.21A.068, all applicable state law." [1995 c 8 § 1.]

Review of permit applications to divert and store water, water flow policy:
RCW 77.57.020.

Water power development, license fees: RCW 90.16.050, 90.16.060, 90.16.090.

43.21A.067 Water resources—"Basic data fund" created. The director of ecology may create within his or her department a fund to be known as the "basic data fund."

Into such fund shall be deposited all moneys contributed by persons for streamflow, groundwater and water quality data or other hydrographic information furnished by the department in cooperation with the United States geological survey, and the fund shall be expended on a matching basis with the United States geological survey for the purpose of obtaining additional basic information needed for an intelligent inventory of water resources in the state.

Disbursements from the basic data fund shall be on vouchers approved by the department and the district engineer of the United States geological survey. [2009 c 549 § 5082; 1987 c 109 § 27; 1967 c 53 § 1; 1965 c 8 § 43.21.140. Prior: 1951 c 57 § 4; 1943 c 30 § 1; Rem. Supp. 1943 § 5505-1. Formerly RCW 43.21.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.068 Federal power act licensees—Exemption from state requirements. (1) With respect to the safety of any dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act, no licensee shall be required to:

(a) Submit proposals, plans, specifications, or other documents for approval by the department;

(b) Seek a permit, license, or other form, permission, or authorization from the department;

(c) Submit to inspection by the department; or

(d) Change the design, construction, modification, maintenance, or operation of such facilities at the demand of the department.

(2) For the purposes of this section, "licensee" means an owner or operator, or any employee thereof, of a dam, canal, ditch, hydraulic power plant, reservoir, project, or other work, system, or plant that requires a license under the federal power act. [1995 c 8 § 2.]

Findings—1995 c 8: See note following RCW 43.21A.064.

43.21A.069 Powers and duties—Flood control. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to flood control. [1987 c 109 § 28; 1965 c 8 § 43.21.160. Prior: 1941 c 204 § 2, part; Rem. Supp. 1941 § 9663F-2, part. Formerly RCW 43.21.160.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.070 Application of administrative procedure act to the review of decisions by director. The administrative procedure act, chapter 34.05 RCW, shall apply to the review of decisions by the director to the same extent as it applied to decisions issued by the directors of the various departments whose powers, duties and functions are transferred by chapter 62, Laws of 1970 ex. sess. to the department of ecology. The administrative procedure act shall further apply to all other decisions of the director as in chapter 34.05 RCW provided. [1970 ex.s. c 62 § 7.]

43.21A.080 Rule-making authority. The director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter: PROVIDED, That the director may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt the rule. [1995 c 403 § 103; 1970 ex.s. c 62 § 8.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.21A.081 Five-year formal review process of existing rules. The department of ecology must establish and perform, within existing funds, a formal review process of its existing rules every five years. The goal of the review is to decrease the numbers of, simplify the process, and decrease the time required for obtaining licenses, permits, and inspections, as applicable, in order to reduce the regulatory burden on businesses without compromising public health and safety. Benchmarks must be adopted to assess the effectiveness of streamlining efforts. The department must establish a process for effectively applying sunset provisions to rules when applicable. The department must report back to the applicable committees of the legislature with its review process and benchmarks by January 2014. [2013 2nd sp.s. c 30 § 2.]

Findings—Intent—2013 2nd sp.s. c 30: "The legislature finds that regulatory processes impose significant costs on doing business and significantly influence investment behavior, location decisions, start-up activity, expansions, and hiring. The legislature further finds that, for more than a decade, the executive and legislative branches have called upon state agencies to review their regulations to achieve meaningful regulatory reform and improve the regulatory climate for Washington businesses. However, a 2012 performance audit conducted by the state auditor's office found that the departments of ecology, health, and labor and industries have not adopted sufficient streamlining processes or formally measured the results of their streamlining activities. Thus, it is the intent of the legislature to formally direct these three state agencies to achieve the regulatory reform that has been repeatedly called for by the governor and the legislature." [2013 2nd sp.s. c 30 § 1.]

43.21A.085 Technical assistance officer and units—Coordination of voluntary compliance with regulatory laws. The department, to the greatest extent possible, within available resources and without jeopardizing the department's ability to carry out its legal responsibilities, may designate one or more of its employees as a technical assistance officer, and may organize the officers into one or more technical assistance units within the department. The duties of a technical assistance officer are to coordinate voluntary compliance with the regulatory laws administered by the department and to provide technical assistance concerning compliance with the laws. [1992 c 19 § 1.]

43.21A.087 Technical assistance officer and units—Authority to issue orders or assess penalties. (1) An employee designated by the department as a technical assistance officer or as a member of a technical assistance unit may not, during the period of the designation, have authority to issue orders or assess penalties on behalf of the department. Such an employee who provides on-site consultation at an industrial or commercial facility and who observes violations of the law shall inform the owner or operator of the

facility of the violations. On-site consultation visits by such an employee may not be regarded as inspections or investigations and no notices or citations may be issued or civil penalties assessed during such a visit. However, violations of the law must be reported to the appropriate officers within the department. If the owner or operator of the facility does not correct the observed violations within a reasonable time, the department may reinspect the facility and take appropriate enforcement action. If a technical assistance officer or member of a technical assistance unit observes a violation of the law that places a person in danger of death or substantial bodily harm, or has caused or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars, the department may initiate enforcement action immediately upon observing the violation.

(2) The state, the department, and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from the performance by technical assistance officers of their duties, or if liability is asserted to arise from the failure of the department to supply technical assistance. [1992 c 19 § 2.]

43.21A.090 Powers, duties and functions transferred to department to be performed by director—Delegation by director, limitations. All powers, duties and functions transferred to the department by the terms of chapter 62, Laws of 1970 ex. sess. shall be performed by the director: PROVIDED, That the director may delegate, by appropriate rule or regulation, the performance of such of his or her powers, duties, and functions, other than those relating to the adoption, amendment or rescission of rules and regulations, to employees of the department whenever it appears desirable in fulfilling the policy and purposes of this chapter. [2009 c 549 § 5083; 1970 ex.s. c 62 § 9.]

43.21A.100 Departmental administrative divisions—Deputy director, duties—Assistant directors, duties—As exempt from state civil service law—Salaries. In order to obtain maximum efficiency and effectiveness within the department, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The deputy director shall have charge and general supervision of the department in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall administer the department until the governor appoints a successor to the director or an acting director. The officers appointed under this section and exempt from the provisions of the state civil service law as provided in RCW 41.06.073, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [2009 c 549 § 5084; 1970 ex.s. c 62 § 10.]

43.21A.120 Director to employ personnel—Application of state civil service law. The director shall have the power to employ such personnel as may be necessary for the general administration of this chapter: PROVIDED, That except as specified in RCW 41.06.073, such employment

shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1970 ex.s. c 62 § 12.]

43.21A.130 Studies—Limitations. (1) In addition to any other powers granted the director, the director may undertake studies dealing with all aspects of environmental problems involving land, water, or air; however, in the absence of specific legislative authority, such studies shall be limited to investigations of particular problems, and shall not be implemented by positive action.

(2)(a) Any studies conducted by the department to establish the total maximum daily load of a water body under chapter 90.48 RCW must involve meaningful participation and opportunities to comment by the local watershed planning group established in chapter 90.82 RCW, the local governments whose jurisdictions are within the affected watershed, and any affected or concerned citizen who notifies the department of his or her interest in participating. Technical or procedural disputes or disagreements that arise during the participation and comment process may be presented to the director for review. The director shall conduct a review of the disputed items and issue written findings and conclusions to all interested participants.

(b) If a study conducted on the total maximum daily load of a water body may affect a new or renewed national pollution discharge elimination permit under chapter 90.48 RCW, the department must disclose prior to the finalization of the study the precision and accuracy of data collected, computer models developed, and assumptions used. [2002 c 364 § 1; 1987 c 505 § 28; 1980 c 87 § 22; 1970 ex.s. c 62 § 13.]

43.21A.140 Director to consult with department, state board of health. The director in carrying out his or her powers and duties under this chapter shall consult with the department of social and health services and the state board of health, or their successors, insofar as necessary to assure that those agencies concerned with the preservation of life and health may integrate their efforts to the fullest extent possible and endorse policies in common. [2009 c 549 § 5085; 1979 c 141 § 67; 1970 ex.s. c 62 § 14.]

43.21A.150 Director to consult with other states, federal government, and Canadian provinces—Authority to receive and disburse grants, funds, and gifts—Department's website list of interagency agreements. (1) The director, whenever it is lawful and feasible to do so, shall consult and cooperate with the federal government, as well as with other states and Canadian provinces, in the study and control of environmental problems. On behalf of the department, the director is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter.

(2)(a) Beginning December 31, 2017, the director must list on the department's website information regarding the current interagency agreements to which the department is a party or in which the department is a participant.

(b) The list must identify each agreement, the type of agreement, parties to the agreement, the effective date of the agreement, and a brief description of the agreement. The list

must include all interagency agreements involving the department and other state agencies, local governments, special purpose districts, the federal government and federal government agencies, and the agencies of other states.

(c) For the initial list, the department must by December 31, 2017, list all grant agreements and federal agreements where information is readily extractable from the department's data systems. For those data systems that, because of their age, require programming support to extract and format data for publishing to the internet, the department must complete listing the required information according to the following schedule:

(i) By June 30, 2018, all contract, loan, and grant agreements;

(ii) By December 31, 2018, all agreements pertaining to funds receivable for work performed by the department, leases, and nonfinancial interagency agreements.

(d) Beginning December 1, 2018, the department must annually update the website to include new interagency agreements that the department has entered into and must identify the agreements that have been updated within the past year.

(e) For the purposes of this section, the term "interagency agreement" includes but is not limited to memoranda of understanding, grant contracts, and advisory or nonbinding agreements.

(f) For purposes of this section, the information posted on the department's website is considered to function as a report to the legislature because the report acts as a mechanism of keeping the legislature apprised of the department's interagency agreements. [2017 c 47 § 2; 1970 ex.s. c 62 § 15.]

Findings—Intent—2017 c 47: "The legislature finds that department of ecology pursues its mission of environmental protection within a complicated framework of national, state, and local authorities and responsibilities, and that the department of ecology's roles within this framework are not always readily intelligible to the public. Furthermore, the legislature finds that promoting the transparency of department of ecology activities will bolster the understanding and trust in the agency held by legislators and the Washingtonians they represent. Therefore, it is the intent of the legislature to require the department of ecology to maintain a list of the department's participation in interagency agreements on its website for the purposes of improving public understanding of the extent and implications of those agreements." [2017 c 47 § 1.]

43.21A.155 Environmental excellence program agreements—Effect on chapter. Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21K RCW. [1997 c 381 § 20.]

Purpose—1997 c 381: See RCW 43.21K.005.

43.21A.160 Request for certification of records as confidential—Procedure. Whenever any records or other information furnished under the authority of this chapter to the director, the department, or any division of the department, relate to the processes of production unique to the owner or operator thereof, or may affect adversely the competitive position of such owner or operator if released to the public or to a competitor, the owner or operator of such processes or production may so certify, and request that such

information or records be made available only for the confidential use of the director, the department, or the appropriate division of the department. The director shall give consideration to the request, and if such action would not be detrimental to the public interest and is otherwise within accord with the policies and purposes of this chapter, may grant the same. [1970 ex.s. c 62 § 16.]

43.21A.165 Environmental technology—Review of certification programs—Demonstration activities. (1) The legislature finds that:

(a) New and innovative environmental technologies can help improve environmental quality at lower costs;

(b) Current regulatory processes often include permits or approvals that require applicants to duplicate costly technical analysis;

(c) The commercialization of innovative environmental technologies can be discouraged due to the costs of repeated environmental analysis;

(d) The regulatory process can be improved by sharing and relying on information generated through demonstration projects and technical certification programs; and

(e) Other states have developed programs to certify environmental technologies in order to streamline the permitting process and to encourage use of environmental technologies.

(2) The legislature therefore declares that the department shall:

(a) Review environmental technology certification programs established by other states or federal agencies, and enter into agreements to use the information from these programs if the department finds that this information will improve the efficiency and effectiveness of the state's environmental regulatory process; and

(b) Participate in technology demonstration activities that support the state's needs for environmental technology. [1997 c 419 § 1.]

43.21A.175 Environmental certification programs—Fees—Rules—Liability. (1) At the request of a project proponent, the department shall consider information developed through a certification program when making permit or other regulatory decisions. The department may not require duplicative demonstration of such information, but may require additional information as necessary to assure that state requirements are met. A local government that has a regulatory authority delegated by the department may use information developed through a certification program when making permit or other regulatory decisions.

(2) The department shall develop a certification program for technologies for remediation of radioactive and mixed waste, as those terms are defined in chapter 70A.300 RCW, if all program development and operational costs are paid by the federal government or persons seeking certification of the technologies.

(3) Following the development of the certification program in subsection (2) of this section, the department may use the policies and procedures of that program on a pilot basis to evaluate the use of certification for site remediation technologies and other environmental technologies, if the operational costs of the certification are paid by the federal

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government or persons seeking certification of such technologies.

(4) The department shall charge a reasonable fee to recover the operational costs of certifying a technology.

(5) Subsections (1), (3), and (4) of this section apply to permit and other regulatory decisions made under the following: Chapters 70A.15, 70A.205, 70A.300, 70A.305, 70A.25, 70A.315, 90.48, 90.54, and 90.56 RCW.

(6) For the purposes of this section, "certification program" means a program, developed or approved by the department, to certify the quantitative performance of an environmental technology over a specified range of parameters and conditions. Certification of a technology does not imply endorsement of a specific technology by the department, or a guarantee of the performance of a technology.

(7) The department may adopt rules as necessary to implement the requirements of subsections (2) and (3) of this section, and establish requirements and procedures for evaluation and certification of environmental technologies.

(8) The state, the department, and officers and employees of the state shall not be liable for damages resulting from the utilization of information developed through a certification program, or from a decision to certify or deny certification to an environmental technology. Actions of the department under this section are not decisions reviewable under RCW 43.21B.110. [2020 c 20 § 1031; 1997 c 419 § 2.]

43.21A.230 Certification of environmental laboratories authorized—Fees—Use of certified laboratories by persons submitting data or results to department. The director of ecology may certify environmental laboratories which conduct tests or prepare data for submittal to the department. Fees for certification may be charged by the department to cover the department's costs. Such certification may consider:

(1) Evaluating protocols and procedures;

(2) Determining the accuracy and reliability of test results, including internal quality assurance and quality control procedures and proficiency at analyzing test samples supplied by the department;

(3) Certifying laboratories based on prior certification by another state or federal agency whose certification requirements are deemed satisfactory by the director; and

(4) Such other factors as the director considers appropriate.

The director of ecology may require that any person submitting laboratory data or test results to the department use laboratories certified by the department or laboratories which participate in quality assurance programs administered by the federal environmental protection agency.

Persons receiving a federal permit for wastewater discharge who operate a lab solely for their own use and who require certification for only conventional pollutants shall not be charged an annual certification fee in excess of the actual costs of providing the certification or four thousand dollars, whichever is less. Conventional pollutants as used in this subsection means those conventional pollutants regulated under the federal clean water act (33 U.S.C. Sec. 1314).

Fees and lab quality control requirements for persons receiving state or federal wastewater discharge permits shall not be implemented before September 30, 1988. The depart-

ment shall not duplicate any laboratory quality control requirements imposed by the United States environmental protection agency. [1987 c 481 § 1.]

43.21A.235 Exemption from laboratory certification and fee requirements. Laboratories owned by persons holding wastewater discharge permits and operated solely for their own use which participate in quality assurance programs administered by the federal environmental protection agency shall be exempt from certification and fee requirements for the specific methods and tests which are the subject of such quality assurance programs. [1987 c 481 § 2.]

43.21A.350 Master plan of development. The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall address how the department will expedite the completion of projects of statewide significance. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan. [2009 c 421 § 7; 1997 c 369 § 6; 1987 c 109 § 29; 1965 c 8 § 43.21.190. Prior: 1957 c 215 § 22; 1933 ex.s. c 54 § 3; RRS § 10930-3. Formerly RCW 43.21.190.]

Purpose—Short title—Construction—Rules—Severability—Capitons—1987 c 109: See notes following RCW 43.21B.001.

Project of statewide significance—Defined: RCW 43.157.010.

Additional notes found at www.leg.wa.gov

43.21A.355 Master plan of development—Public hearings. The director may hold public hearings, in connection with any duty prescribed in RCW 43.21A.350 and may compel the attendance of witnesses and the production of evidence. [1988 c 127 § 7; 1965 c 8 § 43.21.200. Prior: 1957 c 215 § 23; 1933 ex.s. c 54 § 4; RRS § 10930-4. Formerly RCW 43.21.200.]

43.21A.405 Marine pollution—Baseline study program—Legislative finding and declaration. The legislature recognizes that there exists a great risk of potential damage from oil pollution of the waters of the state of Washington and further declares that immediate steps must be undertaken to reduce this risk. The legislature also is aware that such danger is expected to increase in future years in proportion to the increase in the size and cargo capacity of ships, barges, and other waterborne carriers, the construction and

operational characteristics of these carriers, the density of waterborne traffic, and the need for a greater supply of petroleum products.

A program of systematic baseline studies to be conducted by the department of ecology has been recognized as a vital part of the efforts to reduce the risk of oil pollution of marine waters, and the legislature recognizes that many factors combine to make this effort one of considerable magnitude and difficulty. The marine shoreline of the state is about two thousand seven hundred miles long, a greater length than the combined coastlines of Oregon and California. There are some three million acres of submerged land and more than three hundred islands in these marine waters. The average depth of Puget Sound is two hundred twenty feet. There is a great diversity of animal life in the waters of the state. These waters have a multitude of uses by both humans and nonhumans, and the interaction between human activities and natural processes in these waters varies greatly with locale. [2010 c 8 § 7001; 1973 2nd ex.s. c 30 § 1.]

Oil and hazardous substances pollution: RCW 90.56.010 through 90.56.280.

43.21A.410 Marine pollution—Baseline study program established—Utilization of related programs—Coordination—Contracts. As part of the state effort to prevent and control oil pollution, a continuing, comprehensive program of systematic baseline studies for the waters of the state shall be established by the department of ecology. Full utilization of related historical data shall be made in planning these studies. Data from these and other scientific investigations made pursuant to RCW 43.21A.405 through 43.21A.420 should, whenever possible, have multiple use, including use as supporting evidence of environmental damage resulting from oil pollution, as indicators of the potential or existing risks and impacts of oil pollution, as aids to developing a methodology for implementing the reduction of risks, and as aids to maintaining water quality standards.

A baseline study program shall take full advantage of the data and information produced by related programs, such as the marine ecosystems analysis (MESA) program of the national oceanic and atmospheric administration, studies and inventories made pursuant to the state shorelines management act of 1971, and others. All phases of the program, including planning, operations, data analysis, interpretation, storage, retrieval, and dissemination phases, shall be coordinated to the greatest possible extent with appropriate governmental, academic, and industrial organizations. Whenever possible, the department shall contract with existing state agencies, boards, commissions, and institutions of higher education for the scientific investigation programs to be conducted. [1973 2nd ex.s. c 30 § 2.]

43.21A.415 Marine pollution—Baseline study program—Scope of database produced. The database produced by such studies should include chemical, physical, and biological parameters of the waters, complete information on marine pollution accidents, and an economic evaluation of the marine resources and shoreline properties that may be damaged or impaired by oil pollution. Where oceanographic and water quality instrumentation is used to gather data, such instruments shall be standardized and intercalibrated. [1973 2nd ex.s. c 30 § 3.]

43.21A.420 Marine pollution—Baseline study program—Priority factors. In planning the state baseline studies program, priority shall be given to those waters (1) in which the greatest risk of damage from oil spills exists; (2) which contain marine and freshwater life that is particularly sensitive to toxins contained in crude oil, oil products, and oil wastes; and (3) which are used or may be used for the harvesting, gathering, or production of food or food products. [1973 2nd ex.s. c 30 § 4.]

43.21A.430 Catalytic converters in police, ambulance or emergency aid vehicles—Department's powers restricted in respect thereto. The department of ecology may not adopt, maintain in effect, or enforce any rule requiring the installation or maintenance of a catalytic converter in the exhaust system of any motor vehicle used as a police vehicle, or ambulance, an emergency aid vehicle, or a fire department vehicle, and any catalytic converter in the exhaust system of any such vehicle may be lawfully removed. [1977 ex.s. c 264 § 1.]

43.21A.440 Department authorized to participate in and administer federal Comprehensive Environmental Response, Compensation and Liability Act. The department of ecology is authorized to participate fully in and is empowered to administer all programs of the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), as it exists on July 24, 1983, contemplated for state participation and administration under that act. [1983 c 270 § 3.]

Additional notes found at www.leg.wa.gov

43.21A.445 Departments authorized to participate in and administer federal Safe Drinking Water Act—Agreements with other departments. The department of ecology, the department of natural resources, the department of health, and the *oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on June 19, 1986, contemplated for state participation in administration under the act.

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of health and natural resources and the *oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject-matter authority under existing state law. The departments of health and natural resources and the *oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein. [1989 1st ex.s. c 9 § 218; 1988 c 279 § 1; 1983 c 270 § 4.]

***Reviser's note:** The duties of the oil and gas conservation committee were transferred to the department of natural resources by 1994 sp.s. c 9.

Adoption of rules for on-site sewage disposal systems adjacent to marine waters: RCW 90.48.264.

Drinking water quality consumer complaints: RCW 80.04.110.

Additional notes found at www.leg.wa.gov

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43.21A.450 Control of outflow and level of Lake Osoyoos—Lake Osoyoos International Water Control Structure authorized. (1) The legislature recognizes the need for the state of Washington to implement an understanding reached with the Province of British Columbia in relation to a joint venture with British Columbia for controlling the outflow and level of Lake Osoyoos, an international lake, and in connection therewith to replace an existing lake control structure on the Okanogan river in Washington state which has been classified as deteriorated and unsafe.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, construct, own, operate, and maintain a project to be known as the Lake Osoyoos International Water Control Structure and may acquire all real property interests necessary thereto by purchase, grant, gift, or eminent domain; provided that the authority of eminent domain as granted to the department under this section is limited to acquiring property necessary for access to the control structure, location of abutments for the control structure, and flowage easements if necessary.

(3) The department may accept and administer grants or gifts from any source for the purpose of carrying out subsection (2) of this section.

(4) The department may exercise its powers under subsection (2) of this section directly or through contracts, except that it may not delegate its authority of eminent domain. The department may also enter into agreements with any public or municipal corporation with respect to operation and maintenance of the project authorized under subsection (2) of this section. [1985 c 27 § 1; 1982 c 76 § 1.]

Intent—1985 c 27; 1982 c 76: "It is the intent of this legislature in enacting RCW 43.21A.450 that total capital costs for the said project be shared equally by Washington state and British Columbia." [1985 c 27 § 2; 1982 c 76 § 2.]

43.21A.470 Yakima enhancement project—Duties—Request for congressional authorization for pipeline. (1) The director of the department of ecology shall:

(a) Continue to participate with the federal government in its studies of the Yakima enhancement project and of options for future development of the second half of the Columbia Basin project;

(b) Vigorously represent the state's interest in said studies, particularly as they relate to protection of existing water rights and resolution of conflicts in the adjudication of the Yakima river within the framework of state water rights law and propose means of resolving the conflict that minimize adverse effects on the various existing uses;

(c) As a cooperative federal and nonfederal effort, work with members of the congressional delegation to identify and advance, subject to the limitations in subsection (2) of this section, for federal authorization elements of the Yakima enhancement project which: Have general public support and acceptable cost-sharing arrangements, meet study objectives, and otherwise have potential for early implementation; and

(d) In developing acceptable cost-sharing arrangements, request federal recognition of state credit for expenditures of moneys from Washington state utility ratepayers.

(2) In the interest of promoting cooperation between all interested parties and to effectuate the efficient and satisfactory implementation of the Yakima enhancement project, the state requests that Congress authorize the construction of a

pipeline between Keechelus Lake and Kachess Lake as one of the elements of early implementation of the Yakima enhancement project for the purpose of supplying the water which is demanded for and caused by the operation of the fish passage facilities at the Easton Dam. The department, in concert with other state agencies, shall work diligently to assure that the pipeline element is included in the federal legislation. [1987 c 517 § 1; 1986 c 316 § 3.]

43.21A.510 State environmental profile. In order to assist the *department of community, trade, and economic development in providing information to businesses interested in locating in Washington state, the department shall develop an environmental profile of the state. This profile shall identify the state's natural resources and describe how these assets are valuable to industry. Examples of information to be included are water resources and quality, air quality, and recreational opportunities related to natural resources. [1995 c 399 § 66; 1985 c 466 § 51; 1984 c 94 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—1984 c 94: "The legislature finds (1) that a locality's natural environment is an important factor in determining where new businesses will locate, (2) that environmental regulations that preserve the quality of the environment can enhance economic development and the determination by new businesses where to locate and can lead to the creation of jobs and new industries, and (3) that some areas of the state have been and might be handicapped in their economic development efforts because of perceived environmental problems. Thus, the legislature declares that it is the policy of this state to recognize and emphasize the importance of the state's natural environment in its economic development efforts in attracting and maintaining businesses." [1984 c 94 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.515 Assistance to businesses interested in locating in Washington required—Information on environmental laws and regulations to be provided. In order to emphasize the importance of the state's environmental laws and regulations and to facilitate compliance with them, the department of ecology shall provide assistance to businesses interested in locating in Washington state. When the *department of community, trade, and economic development receives a query from an interested business through its industrial marketing activities, it shall arrange for the department of ecology to provide information on the state's environmental laws and regulations and methods of compliance. This section shall facilitate compliance with state environmental laws and regulations and shall not weaken their application or effectiveness. [1995 c 399 § 67; 1985 c 466 § 52; 1984 c 94 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—1984 c 94: See note following RCW 43.21A.510.

Additional notes found at www.leg.wa.gov

43.21A.520 Environmental excellence awards program for products. (1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the envi-

ronment. Application for the award shall be voluntary. The awards may be made in a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning products;
- (c) Pest control products;
- (d) Automotive, marine, and related maintenance products;
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) Products receiving an environmental excellence award pursuant to this section shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a period to be determined by the department. [2010 1st sp.s. c 7 § 87; 1989 c 431 § 47; 1987 c 67 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.600 Powers and duties—Electric power resources. The department shall make studies and surveys, collect, compile and disseminate information and statistics to facilitate development of the electric power resources of the state by public utility districts, municipalities, electric cooperatives, joint operating agencies and public utility companies. The director may cause studies to be made relating to the construction of steam generating plants using any available fuel and their integration with hydro-electric facilities. He or she may cause designs for any such plant to be prepared. He or she shall employ such engineers and other experts and assistants as may be necessary to carry out his or her power resources functions. [2009 c 549 § 5086; 1988 c 127 § 8; 1965 c 8 § 43.21.220. Prior: 1957 c 284 § 2. Formerly RCW 43.21.220.]

Joint operating agencies: Chapter 43.52 RCW.

43.21A.605 Development of electric power resources—Cooperation with governmental units. The director may represent the state and aid and assist the public utilities therein to the end that its resources shall be properly developed in the public interest insofar as they affect electric power and to this end he or she shall cooperate and may negotiate with Canada, the United States, the states thereof and their agencies to develop and integrate the resources of the region. [2009 c 549 § 5087; 1988 c 127 § 9; 1965 c 8 § 43.21.230. Prior: 1957 c 284 § 3. Formerly RCW 43.21.230.]

43.21A.610 Steam electric generating plant—Study—Construction. The director shall continue the study of the state power commission made in 1956 relating to the construction of a steam power electric generating plant, and if the construction of a steam electric generating plant is found to be feasible by the director, the director may construct such plant at a site determined by him or her to be feasible and operate it as a state owned facility. [2009 c 549 § 5088; 1988 c 127 § 10; 1965 c 8 § 43.21.250. Prior: 1957 c 275 § 3. Formerly RCW 43.21.250.]

43.21A.612 Steam electric generating plant—Statement of intention—Construction by public utility, operat-

ing agency, or the department, procedure—Powers of director of community, trade, and economic development. Before the director shall construct said steam generating facility within the state, or make application for any permit, license or other right necessary thereto, the director shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director thereof within ten days after the last date of publication of such notice. If the director determines that it is in the best public interest that the director proceed with such construction rather than the public utility or operating agency, the director shall so notify the *director of community, trade, and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the *director of community, trade, and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, the director shall enter an order so finding and such order shall divest the director of authority to proceed further with such construction or acquisition until such time as the other public utility or agency voluntarily causes an assignment of its right or interest in the project to the director or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director shall have the same authority to proceed as though the director had originally entered an order so authorizing the director to proceed. If, after considering the evidence introduced, the *director of community, trade, and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, the director shall then enter an order so finding and authorizing the director to proceed with the construction or acquisition of the facility. [1995 c 399 § 68; 1988 c 127 § 11; 1985 c 466 § 49; 1965 c 8 § 43.21.260. Prior: 1957 c 275 § 4. Formerly RCW 43.21.260.]

*Reviser's note: The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.21A.614 Steam electric generating plant—Powers of director in constructing, operating and maintaining. In order to construct, operate and maintain the single steam power electric generating plant provided for in RCW 43.21A.610 the director shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate such steam electric power plant, work and facilities for the generation and/or transmission of electric energy and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of such work, plant and facilities; providing that the director shall not be authorized to acquire by condemnation any plant, work and facility owned and operated by any city or district, or by a privately owned public utility.

(3) To apply to the appropriate agencies of the state of Washington, the United States or any state thereof, or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(4) To establish rates for electric energy sold or transmitted by the director. When any revenue bonds or warrants are outstanding the director shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy furnished or supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the director is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the director and all necessary repairs, replacements and renewals thereof.

(5) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the director may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the director shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the director. [1988 c 127 § 12; 1965 c 8 § 43.21.270. Prior: 1957 c 275 § 5. Formerly RCW 43.21.270.]

43.21A.616 Steam electric generating plant—Eminent domain. For the purpose of carrying out any or all of the powers herein granted the director shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to RCW 43.21A.610 through 43.21A.642 shall be brought in the name of the state in any court of competent jurisdiction under the procedure set out in chapter 8.04 RCW. The director may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn property wherever located within the state. It shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceed-

ings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the director into possession of any property condemned. [1988 c 127 § 13; 1965 c 8 § 43.21.280. Prior: 1957 c 275 § 6. Formerly RCW 43.21.280.]

43.21A.618 Steam electric generating plant—State not financially obligated—Separation and expenditure of funds. The director shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions in the execution of RCW 43.21A.610 through 43.21A.642.

No revenues received by the director for the sale of electricity or otherwise, shall be expended except for the payment of lawful obligations of the director and all such revenues and receipts shall be kept and maintained in a separate fund. [1988 c 127 § 14; 1965 c 8 § 43.21.290. Prior: 1957 c 275 § 7. Formerly RCW 43.21.290.]

43.21A.620 Steam electric generating plant—Revenue bonds and warrants. For the purposes provided for in RCW 43.21A.610 through 43.21A.642, the state finance committee shall, upon being notified to do so by the director, issue revenue bonds or warrants payable from the revenues from the steam electric plant provided for in RCW 43.21A.610. When the director deems it advisable that he or she acquire or construct said steam electric plant or make additions or betterments thereto, he or she shall so notify the state finance committee and he or she shall also notify the state finance committee as to the plan proposed, together with the estimated cost thereof. The state finance committee, upon receiving such notice, shall provide for the construction thereof and the issuance of revenue bonds or warrants therefor by a resolution which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as nearly as may be, including as part of the cost, funds necessary for working capital for the operation of such utility and the payment of the expenses incurred in the acquisition or construction thereof. Such resolution shall specify that utility revenue bonds are to be issued to defray the cost thereof and the amount of such bonds to be issued. Bonds issued under the provisions of RCW 43.21A.610 through 43.21A.642 shall distinctly state that they are not a general obligation of the state. [2009 c 549 § 5089; 1988 c 127 § 15; 1965 c 8 § 43.21.300. Prior: 1957 c 275 § 8. Formerly RCW 43.21.300.]

43.21A.622 Steam electric generating plant—Special funds—Payment of bonds, interest. When the state finance committee issues revenue bonds as provided in RCW 43.21A.620, it shall, as a part of the plan and system, request the state treasurer to establish a special fund or funds to defray the cost of the steam electric utility, or additions or betterments thereto or extensions thereof. The state finance committee may obligate and bind the director to set aside and pay to the state treasurer for deposit into such fund or funds a fixed proportion of the gross revenue of the steam electric utility and all additions or betterments thereto or extensions

thereof, or any fixed amount out of, and not exceeding the fixed proportion of such revenue, or a fixed amount without regard to any fixed proportion, or an amount of the revenue equal to a fixed percentage of the aggregate principal amount of revenue bonds at any time issued against the special fund or funds. It may issue and sell utility bonds payable as to both principal and interest only out of such fund or funds.

The revenue bonds shall be payable at such places and times, both as to principal and interest, and bear interest at such rates payable semiannually as the state finance committee shall determine. [1988 c 127 § 16; 1965 c 8 § 43.21.310. Prior: 1957 c 275 § 9. Formerly RCW 43.21.310.]

43.21A.624 Steam electric generating plant—Considerations in issuance of bonds, limitations. In the issuance of any bonds hereunder the state finance committee shall have due regard to the cost of operation and maintenance of the steam electric utility as acquired, constructed or added to, and to any proportion or amount of the revenue previously pledged as a fund for the payment of revenue bonds. It shall not require to be set aside into the fund a greater amount or proportion of the revenue than in its judgment and as agreed to by the director will be available over and above the cost of maintenance and operation and any amount or proportion of the revenue so previously pledged. Revenue bonds and interest thereon issued against such fund shall be a valid claim of the holder thereof only as against the fund and the proportion or amount of the revenue pledged thereto, but shall constitute a prior charge over all other charges or claims whatsoever against the fund and the proportion or amount of the revenues pledged thereto. Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating it. [1988 c 127 § 17; 1965 c 8 § 43.21.320. Prior: 1957 c 275 § 10. Formerly RCW 43.21.320.]

43.21A.626 Steam electric generating plant—Resolution authorizing issuance of bonds, contents, covenants. The resolution of the state finance committee authorizing the issuance of revenue bonds shall specify the title of the bonds as determined by the state finance committee, and may contain covenants by the committee to protect and safeguard the security and the rights of the holders thereof, including covenants as to, among other things:

(1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the gross revenue of the steam electric utility and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation of the steam electric utility and for renewals and replacements thereof;

(3) The amount, if any, of additional revenue bonds payable from such fund which may be issued and the terms and conditions on which such additional revenue bonds or warrants may be issued;

(4) The establishment and maintenance of adequate rates and charges for electric power and energy and other services,

facilities, and commodities, sold, furnished or supplied by the steam electric utility;

(5) The operation, maintenance, management, accounting and auditing of the electric utility;

(6) The terms upon which the revenue bonds, or any of them, may be redeemed at the election of the agency;

(7) Limitations upon the right to dispose of the steam electric utility or any part thereof without providing for the payment of the outstanding revenue bonds; and

(8) The appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts and profits derived by the director from the operation, ownership, and management of its steam electric utility. [1988 c 127 § 18; 1965 c 8 § 43.21.330. Prior: 1957 c 275 § 11. Formerly RCW 43.21.330.]

43.21A.628 Steam electric generating plant—Sale of bonds. All bonds issued under or by authority of RCW 43.21A.610 through 43.21A.642 shall be sold to the highest and best bidder after such advertising for bids as the state finance committee may deem proper. The state finance committee may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as the state finance committee may deem most advantageous to its own interests. [1988 c 127 § 19; 1970 ex.s. c 56 § 61; 1969 ex.s. c 232 § 32; 1965 c 8 § 43.21.340. Prior: 1957 c 275 § 12. Formerly RCW 43.21.340.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Additional notes found at www.leg.wa.gov

43.21A.630 Steam electric generating plant—Examination, registration of bonds by state auditor—Defects, irregularities. Prior to the issuance and delivery of any revenue bonds, such bonds and a certified copy of the resolution authorizing them shall be delivered to the state auditor together with any additional information that he or she may require. When the bonds have been examined they shall be registered by the auditor in books to be kept by him or her for that purpose, and a certificate of registration shall be endorsed upon each bond and signed by the auditor or a deputy appointed by him or her for the purpose. The bonds shall then be prima facie valid and binding obligations of the state finance committee in accordance with their terms, notwithstanding any defects or irregularities in the authorization and issuance of the bonds, or in the sale, execution or delivery thereof. [2009 c 549 § 5090; 1965 c 8 § 43.21.350. Prior: 1957 c 275 § 13. Formerly RCW 43.21.350.]

43.21A.632 Steam electric generating plant—Rates or charges. When revenue bonds are outstanding the director shall establish, maintain, and collect rates or charges for electric power and energy, and other services, facilities and commodities sold and supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on revenue bonds outstanding, and all payments which the director is obligated to make to the state treasurer for deposit in any special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements and renewals thereof. [1988 c 127 §

20; 1965 c 8 § 43.21.360. Prior: 1957 c 275 § 14. Formerly RCW 43.21.360.]

43.21A.634 Steam electric generating plant—Refunding revenue bonds. When the state finance committee has outstanding revenue bonds, the state finance committee, with the concurrence of the director, may by resolution provide for the issuance of refunding revenue bonds with which to refund the outstanding revenue bonds, or any part thereof at maturity, or before maturity if they are by their terms or by other agreement, subject to call for prior redemption, with the right in the state finance committee to combine various series and issues of the outstanding revenue bonds by a single issue of refunding revenue bonds. The refunding bonds shall be payable only out of a special fund created out of the gross revenue of the steam electric utility, and shall only be a valid claim as against such special fund and the amount or proportion of the revenue of the utility pledged to said fund. The rate of interest on refunding revenue bonds shall not exceed the rate of interest on revenue bonds refunded thereby. The state finance committee may exchange the refunding revenue bonds for the revenue bonds which are being refunded, or it may sell them in such manner as it deems for its best interest. Except as specifically provided in this section, the refunding revenue bonds shall be issued in accordance with the provisions contained in RCW 43.21A.610 through 43.21A.642 with respect to revenue bonds. [1988 c 127 § 21; 1965 c 8 § 43.21.370. Prior: 1957 c 275 § 15. Formerly RCW 43.21.370.]

43.21A.636 Steam electric generating plant—Signatures on bonds. All revenue bonds, including refunding revenue bonds, shall be signed by the governor and the state auditor under the seal of the state, one of which signatures shall be made manually and the other signature may be in printed facsimile, and any coupons may have printed or lithographic facsimile of the signatures of such officers. [1965 c 8 § 43.21.380. Prior: 1957 c 275 § 16. Formerly RCW 43.21.380.]

43.21A.638 Steam electric generating plant—Provisions of law, resolution, a contract with bondholder—Enforcement. The provisions of RCW 43.21A.610 through 43.21A.642 and any resolution providing for the issuance of revenue bonds shall constitute a contract with the holder or holders from time to time of the revenue bonds of the state finance committee. Such provisions of RCW 43.21A.610 through 43.21A.642 and of any such resolution shall be enforceable by any such bondholders by appropriate action in any court of competent jurisdiction. [1988 c 127 § 22; 1965 c 8 § 43.21.390. Prior: 1957 c 275 § 17. Formerly RCW 43.21.390.]

43.21A.640 Steam electric generating plant—Bonds are legal security, investment, negotiable. All revenue bonds issued hereunder shall be legal securities, which may be used by a bank or trust company for deposit with the state treasurer, or by a county or city or town treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. They shall constitute legal investments for trustees and other fiduciaries other than corpora-

tions doing a trust business in this state, and for savings and loan associations, banks and insurance companies doing business in this state. All revenue bonds and all coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes of the negotiable instruments law. [1965 c 8 § 43.21.400. Prior: 1957 c 275 § 18. Formerly RCW 43.21.400.]

43.21A.642 Steam electric generating plant—Director not authorized to acquire other facilities or engage in retail distribution. Nothing in RCW 43.21A.610 through 43.21A.642 shall authorize or empower the director to purchase or acquire any transmission or distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating hydroelectric generating plant owned by any city or district, or by a privately owned public utility, or which hereafter may be acquired by any city or district by condemnation. [1988 c 127 § 23; 1965 c 8 § 43.21.410. Prior: 1957 c 275 § 19. Formerly RCW 43.21.410.]

43.21A.650 Freshwater aquatic weeds account. The freshwater aquatic weeds account is hereby created in the state treasury. Expenditures from this account may only be used as provided in RCW 43.21A.660. Moneys in the account may be spent only after appropriation. [1991 c 302 § 2.]

Findings—1991 c 302: "The legislature hereby finds that Eurasian water milfoil and other freshwater aquatic weeds can adversely affect fish populations, reduce habitat for desirable plant and wildlife species, and decrease public recreational opportunities. The legislature further finds that the spread of freshwater aquatic weeds is a statewide problem and requires a coordinated response among state agencies, local governments, and the public. It is therefore the intent of the legislature to establish a funding source to reduce the propagation of Eurasian water milfoil and other freshwater aquatic weeds and to manage the problems created by such freshwater aquatic plants." [1991 c 302 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.660 Freshwater aquatic weeds management program. Funds in the freshwater aquatic weeds account may be appropriated to the department of ecology to develop a freshwater aquatic weeds management program. Funds shall be expended as follows:

(1) No less than two-thirds of the appropriated funds shall be issued as grants to (a) cities, counties, tribes, special purpose districts, and state agencies to prevent, remove, reduce, or manage excessive freshwater aquatic weeds; (b) fund demonstration or pilot projects consistent with the purposes of this section; and (c) fund hydrilla eradication activities in waters of the state. Except for hydrilla eradication activities, such grants shall only be issued for lakes, rivers, or streams with a public boat launching ramp or which are designated by the department of fish and wildlife for fly-fishing. The department shall give preference to projects having matching funds or in-kind services;

(2) No more than one-third of the appropriated funds shall be expended to:

(a) Develop public education programs relating to preventing the propagation and spread of freshwater aquatic weeds; and

(b) Provide technical assistance to local governments and citizen groups; and

(3) During the 2009-2011 fiscal biennium, the legislature may transfer from the freshwater aquatic weeds account to the state general fund such amounts as reflect the excess fund balance of the account; [and]

(4) During the 2011-2013 fiscal biennium, excess funds in the freshwater aquatic weeds account may be appropriated to the department of agriculture to support the invasive knotweed program. [2011 2nd sp. s. c 9 § 907; 2011 c 5 § 907; 1999 c 251 § 1; 1996 c 190 § 1; 1991 c 302 § 4.]

Findings—Effective date—1991 c 302: See notes following RCW 43.21A.650.

Additional notes found at www.leg.wa.gov

43.21A.662 Freshwater aquatic weeds management program—Advisory committee. (1) The department shall appoint an advisory committee to oversee the freshwater aquatic weeds management program.

(2) The advisory committee shall include representatives from the following groups:

(a) Recreational boaters interested in freshwater aquatic weed management;

(b) Residents adjacent to lakes, rivers, or streams with public boat launch facilities;

(c) Local governments;

(d) Scientific specialists;

(e) Pesticide registrants, as defined in *RCW 15.58.030(34);

(f) Certified pesticide applicators, as defined in **RCW 17.21.020(5), who specialize in the use of aquatic pesticides; and

(g) If ***chapter . . . , Laws of 1999 (Senate Bill No. 5315) is enacted by June 30, 1999, the aquatic nuisance species coordinating committee.

(3) The advisory committee shall review and provide recommendations to the department on freshwater aquatic weeds management program activities and budget and establish criteria for grants funded from the freshwater aquatic weeds account. [1999 c 251 § 2.]

Reviser's note: *(1) RCW 15.58.030 was amended by 2000 c 96 § 1, changing subsection (34) to subsection (35). RCW 15.58.030 was subsequently amended by 2003 c 212 § 1, changing subsection (35) to subsection (36). RCW 15.58.030 was subsequently amended by 2011 c 103 § 35, changing subsection (36) to subsection (35).

***(2) RCW 17.21.020 was amended by 2001 c 333 § 1, changing subsection (5) to subsection (6), effective July 1, 2002.

****(3) Senate Bill No. 5315 (1999) was not enacted into law by June 30, 1999.

43.21A.667 Aquatic algae control account—Freshwater and saltwater aquatic algae control program. (1)

The aquatic algae control account is created in the state treasury. Moneys directed to the account from RCW 88.02.640 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic algae control account may be appropriated to the department to develop a freshwater and saltwater aquatic algae control program and may be used to establish contingency funds for emergent issues. Funds must be expended as follows:

(a) As grants to cities, counties, tribes, special purpose districts, and state agencies: (i) To manage excessive fresh-

water and saltwater nuisance algae, with priority for the treatment of lakes in which harmful algal blooms have occurred within the past three years; and (ii) for freshwater and saltwater nuisance algae monitoring and removal; and

(b) To provide technical assistance to applicants and the public about aquatic algae control.

(3) For the purposes of this section, "saltwater nuisance algae" means native invasive algae (sea lettuce), nonnative invasive algae, and algae producing harmful toxins. [2014 c 76 § 1. Prior: 2011 c 171 § 7; 2011 c 169 § 2; 2011 c 5 § 908; 2009 c 564 § 933; 2005 c 464 § 4.]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Findings—Intent—2005 c 464: See note following RCW 88.02.560.

Additional notes found at www.leg.wa.gov

43.21A.680 Solid waste plan advisory committee abolished. The director of ecology shall abolish the solid waste plan advisory committee effective July 1, 1994. [1994 sp.s. c 9 § 804.]

Additional notes found at www.leg.wa.gov

43.21A.681 Geoduck aquaculture operations—Guidelines—Rules. (1) The department of ecology shall develop, by rule, guidelines for the appropriate siting and operation of geoduck aquaculture operations to be included in any master program under this section. The guidelines adopted under this section must be prepared with the advice of the shellfish aquaculture regulatory committee created in section 4, chapter 216, Laws of 2007, which shall serve as the advisory committee for the development of the guidelines.

(2) The guidelines required under this section must be filed for public review and comment no later than six months after the delivery of the final report by the shellfish aquaculture regulatory committee created in section 4, chapter 216, Laws of 2007.

(3) The department of ecology shall update the guidelines required under this section, as necessary, after the completion of the geoduck research by the sea grant program at the University of Washington required under RCW 28B.20.475. [2007 c 216 § 5.]

43.21A.690 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit processing.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

(a) The estimated number of weeks for initial review of the permit application;

(b) The estimated number of revision cycles;

(c) The estimated number of weeks for review of subsequent revision submittals;

(d) The estimated number of billable hours of employee time;

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(e) The rate per hour; and

(f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees, to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 8; 2007 c 94 § 10; 2003 c 70 § 1; 2000 c 251 § 2.]

Intent—2000 c 251: "It is the intent of the legislature to allow applicants for environmental permits for complex projects to compensate permitting agencies for providing environmental review through the voluntary negotiation of cost-reimbursement agreements with the permitting agency. It is the further intent of the legislature that cost-reimbursement agreements for complex projects free permitting agency resources to focus on the review of small projects permits." [2000 c 251 § 1.]

Additional notes found at www.leg.wa.gov

43.21A.700 Transfer of ownership of department-owned vessel—Review of vessel's physical condition. (1) Prior to transferring ownership of a department-owned vessel, the department shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(2) If the department determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the department may: (a) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (b) permanently dispose of the vessel by landfill, deconstruction, or other related method. [2013 c 291 § 23.]

43.21A.702 Transfer of ownership of department-owned vessel—Further requirements. (1) Following the

inspection required under RCW 43.21A.700 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel including initial destination following transfer.

(3) Prior to sale, and unless the vessel has a valid marine document, the department is required to apply for a title or certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550. [2020 c 20 § 1032; 2013 c 291 § 24.]

43.21A.711 Used oil contaminated with polychlorinated biphenyl—Petition for reimbursement of extraordinary costs—Processing and prioritizing petitions—Prioritized list to the legislature. (1) Cities and counties may submit a petition to the department for reimbursement of extraordinary costs associated with managing unforeseen consequences of used oil contaminated with polychlorinated biphenyl and compliance with United States environmental protection agency enforcement orders and enforcement-related agreements.

(2) The department, in consultation with city and county moderate risk waste coordinators, the United States environmental protection agency, and other stakeholders, must process and prioritize city and county petitions that meet the following conditions:

(a) The petitioning city or county has followed and met:

(i) The updated best management practices guidelines for the collection and management of used oil; and

(ii) The best management practices for preventing and managing polychlorinated biphenyl contamination, as required under RCW 70A.224.030; and

(b) The department has determined that:

(i) The costs to the petitioning city or county for disposal of the contaminated oil or for compliance with United States environmental protection agency enforcement orders or enforcement-related agreements are extraordinary; and

(ii) The city or county could not reasonably accommodate or anticipate the extraordinary costs in their normal budget processes by following and meeting the best management practices for oil contaminated with polychlorinated biphenyl.

(3) Before January 1st of each year, the department must develop and submit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of submitted petitions that the department recommends for

funding by the legislature. It is the intent of the legislature that if funded, the reimbursement of extraordinary city or county costs associated with polychlorinated biphenyl management and compliance activities come from the model toxics control operating account created in RCW 70A.305.180. [2020 c 20 § 1033; 2014 c 173 § 3.]

43.21A.721 Grants to emergency responders—Assistance to meet the requirements of chapter 274, Laws of 2015. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of ecology shall provide grants to emergency responders to assist with oil spill and hazardous materials response and firefighting equipment and resources needed to meet the requirements of chapter 274, Laws of 2015.

(2) For the purposes of determining grant allocations, the department of ecology, in consultation with emergency first responders, oil spill response cooperatives, representatives from the oil and rail industries, and businesses that are recipients of liquid bulk crude oil shall: (a) Conduct an evaluation of oil spill and hazardous materials response and firefighting equipment and resources currently available for oil spill and hazardous materials response activities throughout the state; (b) review the local emergency management coordinating efforts for oil spill and hazardous materials response; (c) determine the need for additional, new, or updated equipment and resources; and (d) identify areas or regions of the state that are in greatest need of resources and oil spill and hazardous materials response and firefighting equipment.

(3) The department of ecology, in consultation with emergency first responders, oil spill response cooperatives, representatives from the oil and rail industries, and businesses that are recipients of liquid bulk crude oil shall review grant applications to prioritize grant awards using the evaluation of availability of oil spill and hazardous materials response and firefighting equipment and resources as determined in subsection (2) of this section.

(a) The application review must include evaluation of equipment and resource requests, funding requirements, and coordination with existing equipment and resources in the area.

(b) Funding must be prioritized for applicants from areas where the need for firefighting and oil spill and hazardous materials response equipment is the greatest as determined in subsection (2) of this section.

(c) Grants must be coordinated to maximize currently existing equipment and resources that have been put in place by first responders and industry. [2015 c 274 § 26.]

Effective date—2015 c 274: See note following RCW 90.56.005.

43.21A.730 Office of Chehalis basin. (1) The office of Chehalis basin is established in the department. The primary purpose of the office is to aggressively pursue implementation of an integrated strategy and administer funding for long-term flood damage reduction and aquatic species restoration in the Chehalis river basin.

(2) The office of Chehalis basin must be funded from appropriations specified for Chehalis river basin-related flood hazard reduction and habitat recovery activities.

(3) In operating the office, the department must follow, to the greatest extent practicable, the model being used to

administer the Columbia river basin water supply program established in chapter 6, Laws of 2006. [2016 c 194 § 1.]

43.21A.731 Chehalis board. (1) The Chehalis board is created consisting of seven voting members.

(2)(a) Four members of the board must be voting members who are appointed through the governor. The governor shall invite the Confederated Tribes of the Chehalis Reservation and the Quinault Indian Nation to each designate a voting member of the board, each of which may also designate a voting alternate member of the board. In addition, the governor shall appoint two members of the board, subject to confirmation by the senate. Three board members must be selected by the Chehalis basin flood authority. No member may have a direct financial interest in the actions of the board. The governor shall appoint one of the flood authority appointees as the chair. The voting members of the board must be appointed for terms of four years, except that one member appointed by the governor and one member appointed by the flood authority initially must be appointed for terms of two years, and one member appointed by the governor and two members appointed by the flood authority must initially be appointed for terms of three years. In making the appointments, each appointing authority shall seek a board membership that collectively provides the expertise necessary to provide strong oversight for implementation of the Chehalis basin strategy, that provides extensive knowledge of local government processes and functions, and that has an understanding of issues relevant to reducing flood damages and restoring aquatic species.

(b) In addition to the seven voting members of the board, the following five state officials must serve as ex officio non-voting members of the board: The director of the department of fish and wildlife, the executive director of the Washington state conservation commission, the secretary of the department of transportation, the director of the department of ecology, and the commissioner of public lands. The state officials serving in an ex officio capacity may designate a representative of their respective agencies to serve on the board in their behalf. These designations must be made in writing and in such a manner as is specified by the board.

(3) Staff support to the board must be provided by the department. For administrative purposes, the board is located within the department.

(4) Members of the board who do not represent state agencies must be compensated as provided by RCW 43.03.250. Members of the board shall be reimbursed for travel expenses as provided by RCW 43.03.050 and 43.03.060.

(5) The board is responsible for oversight of a long-term strategy resulting from the department's programmatic environmental impact statement for the Chehalis river basin to reduce flood damages and restore aquatic species habitat.

(6) The board is responsible for overseeing the implementation of the strategy and developing biennial and supplemental budget recommendations to the governor. [2020 c 17 § 1; 2017 c 27 § 1; 2016 c 194 § 2.]

Effective date—2017 c 27: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 17, 2017]." [2017 c 27 § 2.]

(2022 Ed.)

43.21A.732 Chehalis basin strategy. The Chehalis basin strategy must include a detailed set of actions to reduce flood damage and improve aquatic species habitat. The strategy must be amended by the Chehalis board as necessary to include new scientific information and needed changes to the actions to achieve the overall purpose of the strategy. The strategy must include an implementation schedule and quantified measures for evaluating the success of implementation. [2016 c 194 § 3.]

43.21A.733 Chehalis basin account. The Chehalis basin account is created in the state treasury. All receipts from direct appropriations from the legislature, including the proceeds of tax exempt bonds, or moneys directed to the account from any other sources must be deposited in the account. Interest earned by deposits in the account will be retained in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes set out in RCW 43.21A.730 and for the payment of expenses incurred in the issuance and sale of bonds. [2016 c 194 § 4.]

43.21A.734 Chehalis basin taxable account. The Chehalis basin taxable account is created in the state treasury. All receipts from the proceeds of taxable bonds for the office of Chehalis basin, as well as other moneys directed to the account, must be deposited in the account. Interest earned by deposits in the account will be retained in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes set out in RCW 43.21A.730 and for the payment of expenses incurred in the issuance and sale of the bonds. [2020 c 221 § 4.]

43.21A.735 Cannabis science task force. (Expires December 31, 2022.) (1)(a) The cannabis science task force is established with members as provided in this subsection.

(i) The directors, or the directors' appointees, of the departments of agriculture, health, ecology, and the liquor and cannabis board must each serve as members on the task force.

(ii) A majority of the four agency task force members will select additional members, as follows:

(A) Representatives with expertise in chemistry, microbiology, toxicology, public health, and/or food and agricultural testing methods from state and local agencies and tribal governments; and

(B) Nongovernmental cannabis industry scientists.

(b) The director or the director's designee from the department of ecology must serve as chair of the task force.

(2)(a) The cannabis science task force must:

(i) Collaborate on the development of appropriate laboratory quality standards for cannabis product testing laboratories;

(ii) Establish two work groups:

(A) A proficiency testing program work group to be led by the department; and

(B) A laboratory quality standards work group to be led by the department of agriculture. At a minimum this work group will address appropriate approved testing methods,

method validation protocols, and method performance criteria.

(b) The cannabis science task force may reorganize the work groups or create additional work groups as necessary.

(3) Staff support for the cannabis science task force must be provided by the department.

(4) Reimbursement for members is subject to chapter 43.03 RCW.

(5) Expenses of the cannabis science task force must be paid by the department.

(6) The cannabis science task force must submit a report to the relevant committees of the legislature by July 1, 2020, that includes the findings and recommendations for laboratory quality standards for pesticides in plants for cannabis product testing laboratories. The report must include, but is not limited to, recommendations relating to the following:

(a) Appropriate approved testing methods;

(b) Method validation protocols;

(c) Method performance criteria;

(d) Sampling and homogenization protocols;

(e) Proficiency testing; and

(f) Regulatory updates related to (a) through (e) of this subsection, by which agencies, and the timing of these updates.

(7) To the fullest extent possible, the task force must consult with other jurisdictions that have established, or are establishing, cannabis product testing programs.

(8) Following development of findings and recommendations for laboratory quality standards for pesticides in plants for cannabis product testing laboratories, the task force must develop findings and recommendations for additional laboratory quality standards, including, but not limited to, heavy metals in and potency of cannabis products.

(a) The cannabis science task force must submit a report on the findings and recommendations for these additional standards to the relevant committees of the legislature by December 1, 2021.

(b) The report must include recommendations pertaining to the items listed in subsection (6)(a) through (f) of this section.

(9) The task force must hold its first meeting by September 1, 2019.

(10) This section expires December 31, 2022. [2022 c 16 § 35; 2019 c 277 § 3.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

43.21A.736 Cannabis product testing—Fees—Rules.

By July 1, 2024, the department must, in consultation with the liquor and cannabis board, adopt rules to implement section 2, chapter 277, Laws of 2019. [2019 c 277 § 5.]

43.21A.738 Improvements to permitting processes for industrial projects and facilities—Recommendations—Greenhouse gas emissions limits. (Expires June 30, 2023.)

(1) The department, in coordination with the department of commerce and other agencies as appropriate, must develop recommendations for potential improvements to the permitting processes for industrial projects and facilities in Washington that would contribute to achieving greenhouse gas emissions limits established under RCW 70A.45.020 while maintaining standards for the protection of the environ-

ment and the preservation of tribal consultation and treaty rights. The department must provide increased clarity on areas in the state that may be suitable for siting projects that have a lower potential for negative environmental impacts, especially to highly impacted communities as defined in RCW 19.405.020 and identify strategies for minimizing and mitigating negative environmental impacts where possible. The department must provide clear guidance and direction intended to improve project proposals, recommend policy and administrative improvements necessary to improve the permitting process, and recommend any additional studies needed. The department shall convene businesses, local governments, community organizations, and environmental and labor stakeholders, and consult with tribes.

(2) The department and the department of commerce shall produce and submit to the governor and the legislature an interim progress report with initial policy proposal recommendations for the 2022 legislative session by December 1, 2021, and a final report including findings, recommendations, and further policy proposals by December 1, 2022.

(3) This section expires June 30, 2023. [2021 c 317 § 28.]

Severability—2021 c 317: See note following RCW 70A.535.005.

43.21A.740 Environmental justice obligations of the department of ecology. The department must apply and comply with the substantive and procedural requirements of chapter 70A.02 RCW. [2021 c 314 § 5.]

Conflict with federal requirements—2021 c 314: See note following RCW 70A.02.005.

43.21A.900 Chapter to be liberally construed. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the broad purposes set forth in RCW 43.21A.020. [1970 ex.s. c 62 § 27.]

43.21A.910 Savings—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Chapter 43.21B RCW

ENVIRONMENTAL AND LAND USE HEARINGS OFFICE—POLLUTION CONTROL HEARINGS BOARD

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43.21B.001 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Business days" means Monday through Friday exclusive of any state or federal holiday.

(2) "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(3) "Department" means the department of ecology.

(4) "Director" means the director of ecology.

(5) "Environmental boards" means the pollution control hearings board created in RCW 43.21B.010 and the shorelines hearings board created in RCW 90.58.170.

(6) "Land use board" means the growth management hearings board created in RCW 36.70A.250. [2010 c 210 § 2; 2004 c 204 § 1; 1987 c 109 § 4.]

Intent—2010 c 210: "It is the intent of the legislature to reduce and consolidate the number of state boards that conduct administrative review of environmental and land use decisions and to make more uniform the timelines for filing appeals with such boards. The legislature intends to eliminate the hydraulics appeals board and the forest practices appeals board by transferring their duties to the pollution control hearings board. The legislature further intends to eliminate certain preliminary informal appeals heard internally by agencies. The legislature also intends to consolidate administratively and physically collocate the growth management hearings boards into the environmental and land use hearings office by July 1, 2011." [2010 c 210 § 1.]

Purpose—1987 c 109: "The purposes of this act are to:

(1) Simplify and clarify existing statutory and administrative procedures for appealing decisions of the department of ecology and air pollution control authorities in order to (a) expedite those appeals, (b) insure that those appeals are conducted with a minimum of expense to save state and private resources, and (c) allow the appellate authorities to decide cases on their merits rather than on procedural technicalities.

(2) Clarify existing statutes relating to the environment but which refer to numerous agencies no longer in existence.

(3) Eliminate provisions no longer effective or meaningful and abbreviate statutory provisions which are unnecessarily long and confusing." [1987 c 109 § 1.]

Additional notes found at www.leg.wa.gov

43.21B.005 Environmental and land use hearings office created—Composition—Administrative appeals judges—Contracts for services—Public access to rulings, decisions, and orders. (1) There is created an environmental and land use hearings office of the state of Washington. The environmental and land use hearings office consists of the pollution control hearings board created in RCW 43.21B.010, the shorelines hearings board created in RCW 90.58.170, and the growth management hearings board created in RCW 36.70A.250. The governor shall appoint a director of the environmental and land use hearings office during the term of the governor. Membership, powers, functions, and duties of the pollution control hearings board, the shorelines hearings board, and the growth management hearings board shall be as provided by law.

(2) The director of the environmental and land use hearings office may appoint one or more administrative appeals judges in cases before the environmental boards and, one or more hearing examiners in cases before the land use board comprising the office. The administrative appeals judges shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. The hearing examiners possess the powers and duties provided for in RCW 36.70A.270.

(3) Administrative appeals judges are not subject to chapter 41.06 RCW. The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the director of the environmental and land use hearings office. Upon written request by the person so disciplined or terminated, the director of the environmental and land use hearings office shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The director of the environmental and land use hearings office may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The director of the environmental and land use hearings office may also contract for required services.

(6) The director of the environmental and land use hearings office must ensure that timely and accurate board rulings, decisions, and orders are made available to the public through searchable databases accessible through the environmental and land use hearings office websites. To ensure uniformity and usability of searchable databases and websites, the director must coordinate with the relevant boards, the department of commerce, and other interested stakeholders to develop and maintain a rational system of categorizing board rulings, decisions, and orders. The environmental and land use hearings office websites must allow a user to search growth management hearings board decisions and orders by topic, party, and geographic location or by natural language.

All rulings, decisions, and orders issued before January 1, 2019, must be published by June 30, 2021. [2020 c 214 § 5; 2019 c 452 § 1; 2018 c 22 § 10. Prior: 2010 1st sp.s. c 7 § 39; 2010 c 210 § 4; (2010 c 210 § 3 expired July 1, 2011); prior: 2003 c 393 § 18; 2003 c 39 § 22; 1999 c 125 § 1; 1990 c 65 § 1; 1986 c 173 § 3; 1979 ex.s. c 47 § 2.]

Explanatory statement—2018 c 22: See note following RCW 1.20.051.

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Intent—1979 ex.s. c 47: "It is the intent of the legislature to consolidate administratively the pollution control hearings board, the forest practices appeals board, and the shorelines hearings board into one agency of state government with minimum disturbance to these boards. It is not the intent of the legislature in consolidating these boards to change the existing membership of these boards.

All full-time employees of the pollution control hearings board and the full-time employee of the forest practices appeals board shall be full-time employees of the environmental hearings office without loss of rights. Property and obligations of these boards and the shorelines hearings board shall be property and obligations of the environmental hearings office." [1979 ex.s. c 47 § 1.]

Additional notes found at www.leg.wa.gov

43.21B.010 Pollution control hearings board created—Purpose. There is hereby created within the environmental and land use hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of designated environmental appeals as provided for in RCW 43.21B.110. [2010 c 210 § 6; (2010 c 210 § 5 expired July 1, 2011); 1979 ex.s. c 47 § 3; 1970 ex.s. c 62 § 31.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Intent—1979 ex.s. c 47: See note following RCW 43.21B.005.

Additional notes found at www.leg.wa.gov

43.21B.020 Members—Qualifications—Appointment. The hearings board shall consist of three members qualified by experience or training in pertinent matters pertaining to the environment, and at least one member of the hearings board shall have been admitted to practice law in this state and engaged in the legal profession at the time of his or her appointment. The hearings board shall be appointed by the governor with the advice and consent of the senate, and no more than two of whom at the time of appointment or during their term shall be members of the same political party. [2009 c 549 § 5091; 1970 ex.s. c 62 § 32.]

43.21B.030 Members—Terms—Filling vacancies, term. Members of the hearings board shall be appointed for a term of six years and until their successors are appointed and have qualified. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs: PROVIDED, That the terms of the first three members of the hearings board shall be staggered so that one member shall be appointed to serve until July 1, 1972, one member until July 1, 1974, and one member until July 1, 1976. [1970 ex.s. c 62 § 33.]

43.21B.040 Removal of member, procedure—As disqualification for reappointment. Any member of the hear-

ings board may be removed for inefficiency, malfeasance and misfeasance in office, under specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the hearings board by the tribunal shall disqualify such member for reappointment. [1970 ex.s. c 62 § 34.]

43.21B.050 Governor to determine basis for operation—Compensation if part-time basis, limitation—Reimbursement of travel expenses. The hearings board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the hearings board shall operate on a full-time basis, each member of the hearings board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined the hearings board shall operate on a part-time basis, each member of the hearings board shall receive compensation on the basis of seventy-five dollars for each day spent in performance of his or her duties but such compensation shall not exceed ten thousand dollars in a fiscal year. Each hearings board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [2009 c 549 § 5092; 1975-'76 2nd ex.s. c 34 § 101; 1970 ex.s. c 62 § 35.]

Additional notes found at www.leg.wa.gov

43.21B.060 Restrictions upon conduct while member and upon termination of membership. Each member of the hearings board: (1) Shall not be a candidate for nor hold any other public office or trust, and shall not engage in any occupation or business interfering with or inconsistent with his or her duty as a member of the hearings board, nor shall he or she serve on or under any committee of any political party; and (2) shall not for a period of one year after the termination of his or her membership on the hearings board, act in a representative capacity before the hearings board on any matter. [2009 c 549 § 5093; 1970 ex.s. c 62 § 36.]

43.21B.080 Chair, biennial election of. The hearings board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chair, and shall at least biennially thereafter meet and elect such a chair. [2009 c 549 § 5094; 1970 ex.s. c 62 § 38.]

43.21B.090 Principal office—Quorum—Hearings—Board powers and duties. The principal office of the hearings board shall be at the state capitol, but it may sit or hold hearings at any other place in the state. A majority of the hearings board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position of the hearings board be vacant. One or more members may hold hearings and take testimony to be reported for action by the hearings

board when authorized by rule or order of the hearings board. The hearings board shall perform all the powers and duties specified in this chapter or as otherwise provided by law. [1990 c 65 § 2; 1974 ex.s. c 69 § 1; 1970 ex.s. c 62 § 39.]

43.21B.100 Board to make findings of fact and written decisions on each case considered—Effective upon signing and filing—Public information. The hearings board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decisions shall be effective upon being signed by two or more members of the hearings board and upon being filed at the hearings board's principal office, and shall be open for public inspection at all reasonable times. [1970 ex.s. c 62 § 40.]

43.21B.110 Pollution control hearings board jurisdiction. (1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of bio-solids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to

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adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [2022 c 180 § 812. Prior: 2021 c 316 § 41; 2021 c 313 § 16; prior: 2020 c 138 § 11; (2020 c 138 § 10 expired June 30, 2021); 2020 c 20 § 1035; (2020 c 20 § 1034 expired June 30, 2021); prior: 2019 c 344 § 16; 2019 c 292 § 10; 2019 c 290 § 12; 2013 c 291 § 34; (2013 c 291 § 33 expired June 30, 2019); prior: 2010 c 210 § 8; (2010 c 210 § 7 expired June 30, 2019); 2010 c 84 § 3; (2010 c 84 § 2 expired June 30, 2019); prior: 2009 c 456 § 16; 2009 c 332 § 18; (2009 c 183 § 17 expired June 30, 2021); 2003 c 393 § 19; 2001 c 220 § 2; prior: 1998 c 262 § 18; 1998 c 156 § 8; 1998 c 36 § 22; 1993 c 387 § 22; prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Short title—2021 c 316: See RCW 70A.65.900.

Finding—Intent—2021 c 313: See note following RCW 70A.245.010.

Effective date—2020 c 138 § 11: "Section 11 of this act takes effect June 30, 2021." [2020 c 138 § 15.]

Expiration date—2020 c 138 § 10: "Section 10 of this act expires June 30, 2021." [2020 c 138 § 14.]

Application of RCW 82.32.805 and 82.32.808—2020 c 138: See note following RCW 70A.530.005.

Effective date—2020 c 20 § 1035: "Section 1035 of this act takes effect June 30, 2021." [2020 c 20 § 106.]

Expiration date—2020 c 20 § 1034: "Section 1034 of this act expires June 30, 2021." [2020 c 20 § 105.]

Short title—2019 c 292: See RCW 70A.350.900.

Finding—Intent—2019 c 290: See note following RCW 77.12.085.

Effective date—2013 c 291 § 34: "Section 34 of this act takes effect June 30, 2019." [2013 c 291 § 47.]

Expiration date—2013 c 291 § 33: "Section 33 of this act expires June 30, 2019." [2013 c 291 § 46.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Expiration date—2019 c 78; 2009 c 183: See note following RCW 90.03.380.

Intent—2001 c 220: "The legislature intends to assure that appeals of department of ecology decisions regarding changes or transfers of water rights that are the subject of an ongoing general adjudication of water rights are governed by an appeals process that is efficient and eliminates unnecessary duplication, while fully preserving the rights of all affected parties. The legislature intends to address only the judicial review process for certain decisions of the pollution control hearings board when a general adjudication is being actively litigated. The legislature intends to fully preserve the role of the pollution control hearings board, except as specifically provided in this act." [2001 c 220 § 1.]

Intent—1998 c 36: See RCW 15.54.265.

Purpose—Short title—Construction—Rules—Severability—Capitons—1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.

Additional notes found at www.leg.wa.gov

43.21B.130 Administrative procedure act to apply to appeal of board rules and regulations—Scope of board action on decisions and orders of others. The administrative procedure act, chapter 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions were transferred by section 6, chapter 62, Laws of 1970 ex. sess. to the department. All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70A.15 RCW shall be subject to review by the hearings board as provided in this chapter. [2020 c 20 § 1036; 1990 c 65 § 3; 1970 ex.s. c 62 § 43.]

43.21B.160 Appeals—Generally. In all appeals, the hearings board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter 34.05 RCW, the Administrative Procedure Act. The hearings board, and each member thereof, shall be subject to all duties imposed upon, and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings. In the case of appeals within the jurisdiction of the hearings board, the hearings board, or any member thereof, may obtain such assistance, including the making of field

investigations, from the staff of the director as the hearings board, or any member thereof, may deem necessary or appropriate. Any communication, oral or written, from the staff of the director to the hearings board shall be presented only in an open hearing. [1995 c 382 § 2; 1990 c 65 § 5; 1989 c 175 § 103; 1974 ex.s. c 69 § 3; 1970 ex.s. c 62 § 46.]

Additional notes found at www.leg.wa.gov

43.21B.170 Proceedings conducted in accordance with published board rules and regulations. All proceedings before the hearings board or any of its members shall be conducted in accordance with such rules of practice and procedure as the hearings board may prescribe. The hearings board shall publish such rules and arrange for the reasonable distribution thereof. [1995 c 382 § 3; 1970 ex.s. c 62 § 47.]

43.21B.175 Mediation. In all appeals, upon request of one or more parties and with the consent of all parties, the environmental hearings boards may schedule a conference for the purpose of attempting to mediate the case. Mediation must be conducted by an administrative appeals judge or other duly authorized agent of the board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the board. A person who mediates in a particular appeal may not participate in a hearing on that appeal and may not write the decision and order in the appeal. The mediator may not communicate with board members regarding the mediation other than to inform them of the pendency of the mediation and whether the case settled. Mediation provided by the environmental hearings boards must be conducted pursuant to the provisions of the uniform mediation act, chapter 7.07 RCW. [2010 c 210 § 9.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

43.21B.180 Judicial review—Right of review of decisions pursuant to RCW 43.21B.110. Any party aggrieved by a final decision and order of the pollution control hearings board may obtain judicial review of the final decision and order as provided in RCW 34.05.510 through 34.05.598. The state or local agency that issued the decision appealed to the board shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person. [2010 c 210 § 10; 1994 c 253 § 6; 1989 c 175 § 104; 1970 ex.s. c 62 § 48.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.230 Appeals of agency actions. (1) Unless otherwise provided by law, any person with standing may commence an appeal to the pollution control hearings board by filing a notice of appeal with the board within thirty days from the date of receipt of the decision being appealed.

(2) The appeal is timely if it is filed with the board and served upon the state or local agency whose action is being appealed within the same thirty-day period. Proof of service must be filed with the clerk of the hearings board to perfect the appeal.

(3) The appeal must contain the following in accordance with the rules of the hearings board:

- (a) The appellant's name and address;
- (b) The date and docket number of the order, permit, license, or decision appealed;
- (c) A copy of the order, permit, license, or decision that is the subject of the appeal;
- (d) A clear, separate, and concise statement of every error alleged to have been committed;
- (e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and
- (f) A statement setting forth the relief sought. [2010 c 210 § 11; 2004 c 204 § 3; 1997 c 125 § 2; 1994 c 253 § 8; 1990 c 65 § 6; 1970 ex.s. c 62 § 53.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

43.21B.240 Department—Air authorities—Adjudicative proceedings, may not conduct. The department and air authorities shall not have authority to hold adjudicative proceedings pursuant to the Administrative Procedure Act, chapter 34.05 RCW. Such hearings shall be held by the pollution control hearings board. [1989 c 175 § 105; 1987 c 109 § 9; 1970 ex.s. c 62 § 54.]

Purpose—Short title—Construction—Rules—Severability—Capitons—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.250 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.120—Procedure—Finality. (1) All challenges in regard to the consistency of the rules adopted pursuant to RCW 43.21C.120 and with the rules and guidelines adopted pursuant to RCW 43.21C.110 shall be initiated by filing a petition for review with the pollution control hearings board in accordance with rules of practice and procedures promulgated by the hearings board.

(2) All challenges to the hearings board provided under this section shall be decided on the basis of conformance of rules, with the applicable rules and guidelines adopted pursuant to RCW 43.21C.110. The board may in its discretion require briefs, testimony, and oral arguments.

(3) The decisions of the hearings board authorized under this section shall be final. [1974 ex.s. c 179 § 9.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21B.260 Regulations and amendments of activated air pollution control authorities—Filing with hearings board authorized—Evidence. Activated air pollution control authorities, established under chapter 70A.15 RCW, may file certified copies of their regulations and amendments thereto with the pollution control hearings board of the state of Washington, and the hearings board shall take judicial note of the copies so filed and the said regulations and amendments shall be received and admitted, by reference, in all hearings before the board, as prima facie evidence that such regulations and amendments on file are in full force and effect. [2020 c 20 § 1037; 1974 ex.s. c 69 § 5.]

43.21B.300 Penalty procedures. (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280,

70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.245.040 and 70A.245.050, which shall be credited to the recycling enhancement account created in RCW 70A.245.100, RCW 70A.300.090, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 70A.65.200, which shall be credited to the climate

investment account created in RCW 70A.65.250, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090. [2022 c 180 § 813. Prior: 2021 c 316 § 42; 2021 c 313 § 17; 2020 c 20 § 1038; 2019 c 64 § 19; prior: 2010 c 210 § 12; 2010 c 84 § 4; prior: 2009 c 456 § 17; 2009 c 178 § 2; 2007 c 147 § 9; 2004 c 204 § 4; 2001 c 36 § 2; 1993 c 387 § 23; 1992 c 73 § 2; 1987 c 109 § 5.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Short title—2021 c 316: See RCW 70A.65.900.

Finding—Intent—2021 c 313: See note following RCW 70A.245.010.

Explanatory statement—2019 c 64: See note following RCW 1.20.110.

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.305 Appeals that involve penalties of fifteen thousand dollars or less or that involve a derelict or abandoned vessel under RCW 79.100.120. (1) In an appeal that involves a penalty of fifteen thousand dollars or less or that involves a derelict or abandoned vessel under RCW 79.100.120, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board. The board shall define by rule alternative procedures to expedite appeals involving penalties of fifteen thousand dollars or less or involving a derelict or abandoned vessel. These alternatives may include: Mediation, upon agreement of all parties; submission of testimony by affidavit; or other forms that may lead to less formal and faster resolution of appeals.

(2) For appeals that involve a derelict or abandoned vessel under RCW 79.100.120 only, an administrative law judge employed by the board may be substituted for a board member under this section. [2013 c 291 § 44; 2005 c 34 § 2; 1994 c 253 § 5.]

43.21B.310 Appeal of orders. (1) The issuing agency in its discretion may stay the effectiveness of any order that has been appealed to the board during the pendency of such an appeal.

(2) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(3) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to ensure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(4) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the issuing agency within thirty days of the date of receipt. [2010 c 210 § 13. Prior: 2009 c

456 § 18; 2009 c 178 § 3; 2004 c 204 § 5; prior: 2001 c 220 § 4; 2001 c 36 § 3; 1992 c 73 § 3; 1989 c 2 § 14 (Initiative Measure No. 97, approved November 8, 1988); (1987 3rd ex.s. c 2 § 49 repealed by 1989 c 2 § 24, effective March 1, 1989); 1987 c 109 § 6.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Intent—Construction—Effective date—2001 c 220: See notes following RCW 43.21B.110.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.21B.320 Stays of orders. (1) A person appealing to the hearings board an order, not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the issuing agency demonstrates either (a) a substantial probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.05 RCW pending the appeal on the merits before the board. The superior court shall expedite its review of the decision of the hearings board. [2010 c 210 § 14; 1987 c 109 § 7.]

Intent—Effective dates—Application—Pending cases and rules—2010 c 210: See notes following RCW 43.21B.001.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.330 Summary procedures. The hearings board shall develop procedures for summary procedures, consistent with the rules of civil procedure for superior court on summary judgment, to decide cases before it. Such procedures may include provisions for determinations without an oral hearing or hearing by telephonic means. [1987 c 109 § 8.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.900 Savings—Other powers and duties not affected—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Chapter 43.21C RCW
STATE ENVIRONMENTAL POLICY

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Economic policy: Chapter 43.21H RCW.

43.21C.010 Purposes. The purposes of this chapter are:
(1) To declare a state policy which will encourage productive
and enjoyable harmony between humankind and the environ-
ment; (2) to promote efforts which will prevent or eliminate
damage to the environment and biosphere; (3) and [to] stim-
ulate the health and welfare of human beings; and (4) to
enrich the understanding of the ecological systems and natu-
ral resources important to the state and nation. [2009 c 549 §
5095; 1971 ex.s. c 109 § 1.]

**43.21C.020 Legislative recognitions—Declaration—
Responsibility.** (1) The legislature, recognizing that a
human being depends on biological and physical surround-
ings for food, shelter, and other needs, and for cultural
enrichment as well; and recognizing further the profound
impact of a human being's activity on the interrelations of all
components of the natural environment, particularly the pro-
found influences of population growth, high-density urban-
ization, industrial expansion, resource utilization and
exploitation, and new and expanding technological advances
and recognizing further the critical importance of restoring
and maintaining environmental quality to the overall welfare
and development of human beings, declares that it is the con-
tinuing policy of the state of Washington, in cooperation with
federal and local governments, and other concerned public
and private organizations, to use all practicable means and
measures, including financial and technical assistance, in a
manner calculated to: (a) Foster and promote the general wel-
fare; (b) create and maintain conditions under which human
beings and nature can exist in productive harmony; and (c)
fulfill the social, economic, and other requirements of present
and future generations of Washington citizens.

(2) In order to carry out the policy set forth in this chap-
ter, it is the continuing responsibility of the state of Washing-

ton and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment. [2009 c 549 § 5096; 1971 ex.s. c 109 § 2.]

43.21C.030 Guidelines for state agencies, local governments—Statements—Reports—Advice—Information. The legislature authorizes and directs that, to the fullest extent possible: (1) The policies, regulations, and laws of the state of Washington shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on the environment;

(b) Identify and develop methods and procedures, in consultation with the department of ecology and the ecological commission, which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations;

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

(i) the environmental impact of the proposed action;

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the worldwide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(g) Make available to the federal government, other states, provinces of Canada, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of natural resource-oriented projects. [2010 c 8 § 7002; 1971 ex.s. c 109 § 3.]

43.21C.0301 Decisions not subject to RCW 43.21C.030. (1) Decisions made under RCW 36.70A.720 pertaining to work plans, as defined in RCW 36.70A.703, are not subject to the requirements of RCW 43.21C.030(2)(c).

(2) Decisions made by a county under RCW 36.70A.710 on whether to participate in the voluntary stewardship program established by RCW 36.70A.705 are not subject to the requirements of RCW 43.21C.030(2)(c). [2011 c 360 § 19.]

Purpose—Intent—Conflict with federal requirements—2011 c 360: See RCW 36.70A.700 and 36.70A.904.

43.21C.031 Significant impacts. (1) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) and 43.21C.450 do not require environmental review or the preparation of an environmental impact statement under this chapter.

(2) An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental

impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong. [2012 1st sp.s. c 1 § 302; 1995 c 347 § 203; 1983 c 117 § 1.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.21C.0311 Final environmental impact statements—Expeditious manner—Time limit—Reports. (1) A lead agency shall aspire to prepare a final environmental impact statement required by RCW 43.21C.030(2) in as expeditious a manner as possible while not compromising the integrity of the analysis.

(a) For even the most complex government decisions associated with a broad scope of possible environmental impacts, a lead agency shall aspire to prepare a final environmental impact statement required by RCW 43.21C.030(2) within twenty-four months of a threshold determination of a probable significant, adverse environmental impact.

(b) Wherever possible, a lead agency shall aspire to far outpace the twenty-four month time limit established in this section for more commonplace government decisions associated with narrower and more easily identifiable environmental impacts.

(2) Beginning December 31, 2018, and every two years thereafter, the department of ecology must submit a report on the environmental impact statements produced by state agencies and local governments to the appropriate committees of the legislature. The report must include data on the average time, and document the range of time, it took to complete environmental impact statements within the previous two years.

(3) Nothing in this section creates any civil liability for a lead agency or creates a new cause of action against a lead agency. [2017 c 289 § 2.]

Finding—Intent—2017 c 289: "The legislature finds that the analysis of environmental impacts required under the state environmental policy act adds value to government decision-making processes in Washington state and helps minimize the potential environmental harm coming from those government decisions. However, the legislature also recognizes that excessive delays in the environmental impact analysis process adds uncertainty and burdensome costs to those seeking to do business in the state of Washington. Therefore, it is the intent of the legislature to promote timely completion of state environmental policy act processes. In doing so, the legislature intends to restore balance between the need to carefully consider environmental impacts and the need to maintain the economic competitiveness of state businesses." [2017 c 289 § 1.]

43.21C.033 Threshold determination to be made within ninety days after application is complete. (1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for mak-

ing the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that:

(a) By ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter; or

(b) Is planning under RCW 36.70A.040 and is subject to the requirements of *RCW 36.70B.090. [1995 c 347 § 422; 1992 c 208 § 1.]

*Reviser's note: RCW 36.70B.090 expired June 30, 2000, pursuant to 1998 c 286 § 8.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Additional notes found at www.leg.wa.gov

43.21C.034 Use of existing documents. Lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed. [1993 c 23 § 1.]

43.21C.035 Certain irrigation projects decisions exempt from RCW 43.21C.030(2)(c). Decisions pertaining to applications for appropriation of fifty cubic feet of water per second or less for irrigation projects promulgated by any person, private firm, private corporation or private association without resort to subsidy by either state or federal government pursuant to RCW 90.03.250 through 90.03.340, as now or hereafter amended, to be used for agricultural irrigation shall not be subject to the requirements of RCW 43.21C.030(2)(c), as now or hereafter amended. [1974 ex.s. c 150 § 1.]

43.21C.036 Hazardous substance remedial actions—Procedural requirements and documents to be integrated. In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70A.305 RCW. Such integration shall at a minimum include the public participation procedures of chapter 70A.305 RCW and the public notice and review requirements of this chapter. [2020 c 20 § 1039; 1994 c 257 § 21.]

Additional notes found at www.leg.wa.gov

43.21C.037 Application of RCW 43.21C.030(2)(c) to forest practices. (1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices:

(a) On forestlands that are being converted to another use; or

(b) On lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. [2011 c 207 § 3; 1997 c 173 § 6; 1983 c 117 § 2; 1981 c 290 § 1.]

43.21C.038 Application of RCW 43.21C.030(2)(c) to school closures. Nothing in RCW 43.21C.030(2)(c) shall be construed to require the preparation of an environmental impact statement or the making of a threshold determination for any decision or any action commenced subsequent to September 1, 1982, pertaining to a plan, program, or decision for the closure of a school or schools or for the school closure portion of any broader policy, plan or program by a school district board of directors. [1983 c 109 § 1.]

43.21C.0381 Application of RCW 43.21C.030(2)(c) to decisions pertaining to air operating permits. Decisions pertaining to the issuance, renewal, reopening, or revision of an air operating permit under RCW 70A.15.2260 are not subject to the requirements of RCW 43.21C.030(2)(c). [2020 c 20 § 1040; 1995 c 172 § 1.]

43.21C.0382 Application of RCW 43.21C.030(2)(c) to watershed restoration projects—Fish habitat enhancement projects. (1) Decisions pertaining to watershed resto-

ration projects as defined in RCW 89.08.460 are not subject to the requirements of RCW 43.21C.030(2)(c).

(2) Decisions pertaining to fish habitat enhancement projects meeting the criteria of RCW 77.55.181 and being reviewed and approved according to the provisions of RCW 77.55.181 are not subject to the requirements of RCW 43.21C.030(2)(c). [2014 c 120 § 16; 2003 c 39 § 23; 1998 c 249 § 12; 1995 c 378 § 12.]

Findings—Purpose—Report—Effective date—1998 c 249: See notes following RCW 77.55.181.

43.21C.0383 Application of RCW 43.21C.030(2)(c) to waste discharge permits. The following waste discharge permit actions are not subject to the requirements of RCW 43.21C.030(2)(c):

(1) For existing discharges, the issuance, reissuance, or modification of a waste discharge permit that contains conditions no less stringent than federal effluent limitations and state rules;

(2) The issuance of a construction stormwater general permit under chapter 90.48 RCW for a proposal disturbing less than five acres. The exemption in this subsection does not apply if, under rules adopted by the department of ecology, the proposal would otherwise be subject to the requirements of RCW 43.21C.030(2)(c). [2008 c 37 § 2; 1996 c 322 § 1.]

Intent—2008 c 37: "The legislature intends that the revised threshold adopted in 2005 for the department of ecology's construction stormwater general permit should not increase the scope of projects subject to state environmental policy act review. The department of ecology should pursue rule making to achieve the intent of this act." [2008 c 37 § 1.]

43.21C.0384 Application of RCW 43.21C.030(2)(c) to wireless services facilities—Reporting requirement—Definitions. (1) Decisions pertaining to applications to site wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures does not substantially change the physical dimensions of such structures; or

(b) The siting project involves constructing a wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone. This exemption does not apply to projects within a designated critical area.

(2) The exemption authorized under subsection (1) of this section may only be applied to a project consisting of a series of actions when all actions in the series are categorically exempt and the actions together do not have a probable significant adverse environmental impact.

(3) The department of ecology shall adopt rules to create a categorical exemption for wireless service facilities that meet the conditions set forth in subsections (1) and (2) of this section.

(4) By January 1, 2020, all wireless service providers granted an exemption to RCW 43.21C.030(2)(c) must provide the legislature with the number of permits issued pertaining to wireless service facilities, the number of exemptions granted under this section, and the total dollar invest-

ment in wireless service facilities between July 1, 2013, and June 30, 2019.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Collocation" means the mounting or installation of equipment on an existing tower, building, or structure for the purpose of either transmitting or receiving, or both, radio frequency signals for communications purposes.

(b) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(c) "Substantially change the physical dimensions" means:

(i) The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or

(ii) The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

(d) "Wireless service facilities" means facilities for the provision of wireless services.

(e) "Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations. [2013 c 317 § 1; 1996 c 323 § 2.]

Alphabetization—2013 c 317: "The code reviser is directed to put the defined terms in RCW 43.21C.0384(5) into alphabetical order." [2013 c 317 § 2.]

Findings—1996 c 323: See note following RCW 43.70.600.

43.21C.039 Metals mining and milling operations—Environmental impact statements required. Notwithstanding any provision in RCW 43.21C.030 and 43.21C.031 to the contrary, an environmental impact statement shall be prepared for any proposed metals mining and milling operation as required by RCW 78.56.050. [1994 c 232 § 25.]

Disclosures required with SEPA checklist, metals mining and milling operations: RCW 78.56.040.

Additional notes found at www.leg.wa.gov

43.21C.040 Examination of laws, regulations, policies by state agencies and local authorities—Report of deficiencies and corrective measures. All branches of government of this state, including state agencies, municipal and public corporations, and counties shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the governor not later than January 1, 1972, such measures as may be necessary to bring their authority and policies in conformity with the intent, purposes, and procedures set forth in this chapter. [1971 ex.s. c 109 § 4.]

43.21C.050 Specific statutory obligations not affected. Nothing in RCW 43.21C.030 or 43.21C.040 shall

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in any way affect the specific statutory obligations of any agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other public agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other public agency. [1971 ex.s. c 109 § 5.]

43.21C.060 Chapter supplementary—Conditioning or denial of governmental action. The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties. Any governmental action may be conditioned or denied pursuant to this chapter: PROVIDED, That such conditions or denials shall be based upon policies identified by the appropriate governmental authority and incorporated into regulations, plans, or codes which are formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of authority pursuant to this chapter. Such designation shall occur at the time specified by RCW 43.21C.120. Such action may be conditioned only to mitigate specific adverse environmental impacts which are identified in the environmental documents prepared under this chapter. These conditions shall be stated in writing by the decision maker. Mitigation measures shall be reasonable and capable of being accomplished. In order to deny a proposal under this chapter, an agency must find that: (1) The proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and (2) reasonable mitigation measures are insufficient to mitigate the identified impact. Except for permits and variances issued pursuant to chapter 90.58 RCW, when such a governmental action, not requiring a legislative decision, is conditioned or denied by a nonelected official of a local governmental agency, the decision shall be appealable to the legislative authority of the acting local governmental agency unless that legislative authority formally eliminates such appeals. Such appeals shall be in accordance with procedures established for such appeals by the legislative authority of the acting local governmental agency. [1983 c 117 § 3; 1977 ex.s. c 278 § 2; 1971 ex.s. c 109 § 6.]

43.21C.065 Impact fees and fees for system improvements. A person required to pay an impact fee for system improvements pursuant to RCW 82.02.050 through 82.02.090 shall not be required to pay a fee pursuant to RCW 43.21C.060 for those same system improvements. [1992 c 219 § 1.]

43.21C.075 Appeals. (1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall allow no more than one agency appeal proceeding on each procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement);

(b) Shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing officer or body to consider the agency decision or recommendation on a proposal and any environmental determinations made under this chapter, with the exception of:

(i) An appeal of a determination of significance;

(ii) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under this chapter, including any appeals of its procedural determinations, prior to submitting an application for a project permit;

(iii) An appeal of a procedural determination made by an agency on a nonproject action; or

(iv) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an administrative appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. This subsection does not modify any such time periods. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be com-

menced within such time period. The agency shall give official notice stating the date and place for commencing an appeal.

(b) If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

(6)(a) Judicial review under subsection (5) of this section of an appeal decision made by an agency under subsection (3) of this section shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and the certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order within one hundred eighty days as provided in RCW 90.58.180.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. Except as provided in subsection (5) of this section, the word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorneys' fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and

without reasonable basis. [1997 c 429 § 49; 1995 c 347 § 204; 1994 c 253 § 4; 1983 c 117 § 4.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Additional notes found at www.leg.wa.gov

43.21C.080 Notice of action by governmental agency—How publicized—Time limitation for commencing challenge to action. (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in rules adopted under RCW 43.21C.110:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of first newspaper publication;

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2)(a) Except as otherwise provided in RCW 43.21C.075(5)(a), any action to set aside, enjoin, review, or otherwise challenge any such governmental action or subsequent governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within twenty-one days from the date of last newspaper publication of the notice pursuant to subsection (1) of this section, or be barred.

(b) Any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action that is likely to have adverse environmental impacts beyond the range of impacts previously analyzed, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation. [1995 c 347 § 205; 1977 ex.s. c 278 § 1; 1974 ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 § 1.]

Additional notes found at www.leg.wa.gov

43.21C.087 List of filings required by RCW 43.21C.080. The department of ecology shall prepare a list of all filings required by RCW 43.21C.080 each week and shall make such list available to any interested party. The list of filings shall include a brief description of the governmental action and the project involved in such action, along with the location of where information on the project or action may be obtained. Failure of the department to include any project or action shall not affect the running of the statute of limitations provided in RCW 43.21C.080. [1974 ex.s. c 179 § 14.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.090 Decision of governmental agency to be accorded substantial weight. In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight. [1973 1st ex.s. c 179 § 3.]

Additional notes found at www.leg.wa.gov

43.21C.095 State environmental policy act rules to be accorded substantial deference. The rules adopted under RCW 43.21C.110 shall be accorded substantial deference in the interpretation of this chapter. [2012 1st sp.s. c 1 § 312; 1983 c 117 § 5.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

43.21C.110 Content of state environmental policy act rules. It shall be the duty and function of the department of ecology:

(1) To adopt and amend rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule adoption. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule-making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review.

An action that is categorically exempt under the rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly

developed with the department of commerce and shall be applicable to the preparation of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include procedures and criteria to analyze planned actions under RCW 43.21C.440 and revisions to the rules adopted under this section to ensure that they are compatible with the requirements and authorizations of chapter 347, Laws of 1995, as amended by chapter 429, Laws of 1997. Ordinances or procedures adopted by a county, city, or town to implement the provisions of chapter 347, Laws of 1995 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW. [2012 1st sp.s. c 1 § 311; 1997 c 429 § 47; 1995 c 347 § 206; 1983 c 117 § 7; 1974 ex.s. c 179 § 6.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

Additional notes found at www.leg.wa.gov

43.21C.120 Rules, ordinances, resolutions and regulations—Adoption—Effective dates. (1) All agencies of government of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies [policies] under RCW 43.21C.060 and adoption of rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of an agency, whichever shall occur later.

(2) Rules adopted by state agencies under subsection (1) of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW and shall be subject to the review procedures of RCW *34.05.538 and 34.05.240.

(3) All public and municipal corporations, political subdivisions, and counties of this state are directed, consistent

with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies under RCW 43.21C.060 and adoption of the rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of the governmental entity, whichever shall occur later.

(4) Ordinances or regulations adopted prior to the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110 shall continue to be effective until the adoptions of any new or revised ordinances or regulations which may be required: PROVIDED, That revisions required by this section as a result of rule changes under RCW 43.21C.110 are made within the time limits specified by this section. [1983 c 117 § 8; 1974 ex.s. c 179 § 8.]

*Reviser's note: RCW 34.05.538 was repealed by 1989 c 175 § 185, effective July 1, 1989.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.130 Model ordinances. The department of ecology, in consultation with concerned state agencies, shall with the assistance of the associations of county prosecutors and city attorneys, the association of county elected officials, the Washington state association of counties, and the association of cities, draft model ordinances for use by counties, cities and towns in drafting their ordinances under this chapter. [1974 ex.s. c 179 § 10.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.135 Authority of local governmental units to adopt rules, guidelines and model ordinances by reference. (1) All public and municipal corporations, political subdivisions, and counties of the state are authorized to adopt rules, ordinances, and resolutions which incorporate any of the following by reference to the appropriate sections of the Washington Administrative Code:

(a) Rules and guidelines adopted under RCW 43.21C.110(1) in accordance with the administrative procedure act, chapter 34.05 RCW;

(b) Model ordinances adopted by the department of ecology under RCW 43.21C.130 in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) If any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, any publication of such rule, ordinance, or resolution shall be accompanied by a summary of the contents of the sections of the Washington Administrative Code referred to. Such summaries shall be provided to the adopting units of local government by the department of ecology: PROVIDED, That any proposal for a rule, ordinance or resolution which would adopt by reference rules and guidelines or model ordinances pursuant to this section shall be accompanied by the full text of the material to be adopted which need not be published but shall be maintained on file for public use and examination.

(3) Whenever any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, the corporation, political subdivision, or county of the

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state adopting the rule, ordinance, or resolution shall maintain on file for public use and examination not less than three copies of the sections of the Washington Administrative Code referred to. [1975-'76 2nd ex.s. c 99 § 1.]

43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act. The requirements of RCW 43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c). [1975 1st ex.s. c 206 § 1; 1974 ex.s. c 179 § 12.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.160 Utilization of statement prepared under RCW 43.21C.030 to implement *chapter 90.62 RCW—Utilization of *chapter 90.62 RCW procedures to satisfy RCW 43.21C.030(2)(c). In the implementation of *chapter 90.62 RCW (the Environmental Coordination Procedures Act of 1973), the department of ecology, consistent with guidelines adopted by the council shall adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participating in the processing of a master application. Whenever the procedures established pursuant to *chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030(2)(c). The time limits for challenges provided for in RCW 43.21C.080(2) shall be applicable when such procedures are so utilized. [1974 ex.s. c 179 § 13.]

*Reviser's note: Chapter 90.62 RCW was repealed by 1995 c 347 § 619.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.170 Council on environmental policy. The legislature may establish a council on environmental policy to review and assist in the implementation of this chapter. [1983 c 117 § 6; 1974 ex.s. c 179 § 4. Formerly RCW 43.21C.100.]

43.21C.175 Council on environmental policy—Personnel. The council may employ such personnel as are necessary for the performances of its duties. [1974 ex.s. c 179 § 5. Formerly RCW 43.21C.105.]

43.21C.210 Certain actions during state of emergency exempt from chapter. This chapter does not apply to actions authorized by RCW 70A.10.200 and 70A.10.210 which are undertaken during a state of emergency declared by the governor under RCW 43.06.210. [2020 c 20 § 1041; 1981 c 278 § 4.]

43.21C.220 Incorporation of city or town exempt from chapter. The incorporation of a city or town is exempt from compliance with this chapter. [1982 c 220 § 6.]

Incorporation proceedings exempt from chapter: RCW 36.93.170.

Additional notes found at www.leg.wa.gov

43.21C.222 Annexation by city or town exempt from chapter. Annexation of territory by a city or town is exempted from compliance with this chapter. [1994 c 216 § 19.]

Additional notes found at www.leg.wa.gov

43.21C.225 Consolidation and annexation of cities and towns exempt from chapter. Consolidations of cities or towns, and the annexations of all of a city or town by another city or town, are exempted from compliance with this chapter. [1985 c 281 § 29.]

43.21C.227 Disincorporation of a city or town or reduction of city or town limits exempt from chapter. (1) The disincorporation of a city or town is exempt from compliance with this chapter.

(2) The reduction of city or town limits is exempt from compliance with this chapter. [2002 c 93 § 2.]

Intent—2002 c 93: "Incorporations and annexations are exempt from the state environmental policy act. However, there are no comparable exemptions for reductions of city limits or disincorporations. It is the legislature's intent to provide that a reduction in city limits or disincorporation is not subject to the state environmental policy act." [2002 c 93 § 1.]

43.21C.229 Infill development—Categorical exemptions from chapter. (1) In order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter. An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). An exemption may be adopted by a city or county under this section if it meets the following criteria:

(a) It categorically exempts government action related to development proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan and the development is either:

(i) Residential development;

(ii) Mixed-use development; or

(iii) Commercial development up to sixty-five thousand square feet, excluding retail development;

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;

(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis

through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section.

(2) Any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department. [2020 c 87 § 1; 2012 1st sp.s. c 1 § 304; 2003 c 298 § 1.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

Additional notes found at www.leg.wa.gov

43.21C.230 Development and adoption of plan under chapter 43.180 RCW exempt from chapter. This chapter does not apply to the development or adoption of the plan required to be developed and adopted under chapter 43.180 RCW. [1983 c 161 § 29.]

Additional notes found at www.leg.wa.gov

43.21C.240 Project review under the growth management act. (1) If the requirements of subsection (2) of this section are satisfied, a county, city, or town reviewing a project action shall determine that the requirements for environmental analysis, protection, and mitigation measures in the county, city, or town's development regulations and comprehensive plans adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws and rules provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action to which the requirements apply. Rules adopted by the department according to RCW 43.21C.110 regarding project specific impacts that may not have been adequately addressed apply to any determination made under this section. In these situations, in which all adverse environmental impacts will be mitigated below the level of significance as a result of mitigation measures included by changing, clarifying, or conditioning of the proposed action and/or regulatory requirements of development regulations adopted under chapter 36.70A RCW or other local, state, or federal laws, a determination of nonsignificance or a mitigated determination of nonsignificance is the proper threshold determination.

(2) A county, city, or town shall make the determination provided for in subsection (1) of this section if:

(a) In the course of project review, including any required environmental analysis, the local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

(b) The local government bases or conditions its approval on compliance with these requirements or mitigation measures.

(3) If a county, city, or town's comprehensive plans, sub-area plans, and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under subsections (1) and (2) of this section, the county, city, or town shall not impose additional mitigation under this chapter during project review. Project review shall be integrated with environmental analysis under this chapter.

(4) A comprehensive plan, subarea plan, or development regulation shall be considered to adequately address an impact if the county, city, or town, through the planning and environmental review process under chapter 36.70A RCW and this chapter, has identified the specific adverse environmental impacts and:

(a) The impacts have been avoided or otherwise mitigated; or

(b) The legislative body of the county, city, or town has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW.

(5) In deciding whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the county, city, or town shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the county, city, or town shall base or condition its project approval on compliance with these other existing rules or laws.

(6) Nothing in this section limits the authority of an agency in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by this chapter.

(7) This section shall apply only to a county, city, or town planning under RCW 36.70A.040. [2003 c 298 § 2; 1995 c 347 § 202.]

Findings—Intent—1995 c 347 § 202: "(1) The legislature finds in adopting RCW 43.21C.240 that:

(a) Comprehensive plans and development regulations adopted by counties, cities, and towns under chapter 36.70A RCW and environmental laws and rules adopted by the state and federal government have addressed a wide range of environmental subjects and impacts. These plans, regulations, rules, and laws often provide environmental analysis and mitigation measures for project actions without the need for an environmental impact statement or further project mitigation.

(b) Existing plans, regulations, rules, or laws provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed projects should be integrated with, and should not be duplicated by, environmental review under chapter 43.21C RCW.

(c) Proposed projects should continue to receive environmental review, which should be conducted in a manner that is integrated with and does not duplicate other requirements. Project-level environmental review should be used to: (i) Review and document consistency with comprehensive plans and development regulations; (ii) provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures.

(d) When a project permit application is filed, an agency should analyze the proposal's environmental impacts, as required by applicable regulations and the environmental review process required by this chapter, in one project review process. The project review process should include land use, environmental, public, and governmental review, as provided by the applicable regulations and the rules adopted under this chapter, so that documents prepared under different requirements can be reviewed together by the public and

other agencies. This project review will provide an agency with the information necessary to make a decision on the proposed project.

(e) Through this project review process: (i) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts; (ii) if the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and (iii) if the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review.

(2) The legislature intends that a primary role of environmental review under chapter 43.21C RCW is to focus on the gaps and overlaps that may exist in applicable laws and requirements related to a proposed action. The review of project actions conducted by counties, cities, and towns planning under RCW 36.70A.040 should integrate environmental review with project review. Chapter 43.21C RCW should not be used as a substitute for other land use planning and environmental requirements." [1995 c 347 § 201.]

Finding—Severability—Part headings and table of contents note law—1995 c 347: See notes following RCW 36.70A.470.

Additional notes found at www.leg.wa.gov

43.21C.250 Forest practices board—Emergency rules—Exempt from chapter. The duration and process for adopting emergency rules by the forest practices board pertaining to forest practices and the protection of aquatic resources as provided in RCW 76.09.055 are exempt from the procedural requirements of this chapter. [1999 sp.s. c 4 § 203.]

Additional notes found at www.leg.wa.gov

43.21C.260 Certain actions not subject to RCW 43.21C.030(2)(c)—Threshold determination on a watershed analysis. (1) Decisions pertaining to the following kinds of actions under chapter 4, Laws of 1999 sp. sess. are not subject to any procedural requirements implementing RCW 43.21C.030(2)(c): (a) Approval of forest road maintenance and abandonment plans under chapter 76.09 RCW and *RCW 77.55.100; (b) approval by the department of natural resources of future timber harvest schedules involving east-side clear cuts under rules implementing chapter 76.09 RCW; (c) acquisitions of forestlands in stream channel migration zones under RCW 76.09.040; and (d) acquisitions of conservation easements pertaining to forestlands in riparian zones under RCW 76.13.120.

(2) For purposes of the department's threshold determination on a watershed analysis, the department shall not make a determination of significance unless the prescriptions themselves, compared to rules or prescriptions in place prior to the analysis, will cause probable significant adverse impact on elements of the environment other than those addressed in the watershed analysis process. Nothing in this subsection shall be construed to effect the outcome of pending litigation regarding the department's authority in making a threshold determination on a watershed analysis. [2003 c 39 § 24; 1999 sp.s. c 4 § 1201.]

*Reviser's note: RCW 77.55.100 was repealed by 2005 c 146 § 1006.

Additional notes found at www.leg.wa.gov

43.21C.300 Workshops—Handbook. The department of ecology shall conduct annual statewide workshops and publish an annual state environmental policy act handbook or supplement to assist persons in complying with the provisions of this chapter and the implementing rules. The work-

shops and handbook shall include, but not be limited to, measures to assist in preparation, processing, and review of environmental documents, relevant court decisions affecting this chapter or rules adopted under this chapter, legislative changes to this chapter, administrative changes to the rules, and any other information which will assist in orderly implementation of this chapter and rules.

The department shall develop the handbook and conduct the workshops in cooperation with, but not limited to, state agencies, the association of Washington cities, the Washington association of counties, educational institutions, and other groups or associations interested in the state environmental policy act. [1983 c 117 § 9.]

43.21C.400 Unfinished nuclear power projects—Council action exempt from this chapter. Council actions pursuant to the transfer of the site or portions of the site under RCW 80.50.300 are exempt from the provisions of this chapter. [1996 c 4 § 4.]

Energy facility site evaluation council: RCW 80.50.030.

43.21C.410 Battery charging and exchange station installation. (1) The installation of individual battery charging stations and battery exchange stations, which individually are categorically exempt under the rules adopted under RCW 43.21C.110, may not be disqualified from such categorically exempt status as a result of their being parts of a larger proposal that includes other such facilities and related utility networks under the rules adopted under RCW 43.21C.110.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. [2009 c 459 § 8.]

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

43.21C.420 Comprehensive plans and development regulations—Optional elements—Nonproject environmental impact statements—Subarea plans—Transfer of development rights program—Recovery of expenses. (1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other non-vehicular transportation methods.

(3) A major transit stop is defined as:

(a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

(d) Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

(e) As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forestland of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)(e) may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, 2029, a proposed development that meets the criteria of (b) of this subsection may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed the following time frames:

(i) Nineteen years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city as of July 28, 2019; or

(ii) Ten years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city after July 28, 2019.

(b) A proposed development may not be challenged, consistent with the timelines established in (a) of this subsection, so long as the development:

(i) Is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section;

(ii) Sets aside or requires the occupancy of at least ten percent of the dwelling units, or a greater percentage as determined by city development regulations, within the development for low-income households at a sale price or rental amount that is considered affordable by a city's housing programs. This subsection (5)(b)(ii) applies only to projects that are consistent with an optional element adopted by a city pursuant to this section after July 28, 2019; and

(iii) Is environmentally reviewed under subsection (4) of this section.

(c) After July 1, 2029, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, 2029. After July 1, 2029, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, 2029.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city

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may recover or apply for a grant or loan to prospectively cover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits from, as described in subsection (5) of this section, the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter. [2019 c 348 § 7; 2010 c 153 § 2.]

Intent—2010 c 153: "It is the intent of the legislature to encourage high-density, compact, in-fill development and redevelopment within existing urban areas in order to further existing goals of chapter 36.70A RCW, the growth management act, to promote the use of public transit and encourage further investment in transit systems, and to contribute to the reduction of greenhouse gas emissions by: (1) Encouraging local governments to adopt plans and regulations that authorize compact, high-density urban development as defined in section 2 of this act; (2) providing for the funding and preparation of environmental impact statements that comprehensively examine the impacts of such development at the time that the plans and regulations are adopted; and (3) encouraging development that is consistent with such plans and regulations by precluding appeals under chapter 43.21C RCW." [2010 c 153 § 1.]

43.21C.428 Recovery of expenses of nonproject environmental impact statements—Fees for subsequent development. (1) A county, city, or town may recover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under RCW 43.21C.229 and 43.21C.440:

(a) Through access to financial assistance under RCW 36.70A.490;

(b) With funding from private sources; and

(c) By the assessment of fees consistent with the requirements and limitations of this section.

(2)(a) A county, city, or town is authorized to assess a fee upon subsequent development that will make use of and ben-

efit from: (i) The analysis in an environmental impact statement prepared for the purpose of compliance with RCW 43.21C.440 regarding planned actions; or (ii) the reduction in environmental analysis requirements resulting from the exercise of authority under RCW 43.21C.229 regarding infill development.

(b) The amount of the fee must be reasonable and proportionate to the total expenses incurred by the county, city, or town in the preparation of the environmental impact statement.

(c) Counties, cities, and towns are not authorized by this section to assess fees for general comprehensive plan amendments or updates.

(3) A county, city, or town assessing fees under subsection (2)(a) of this section must provide for a mechanism by which project proponents may either elect to utilize the environmental review completed by the lead agency and pay the fees under subsection (1) of this section or certify that they do not want the local jurisdiction to utilize the environmental review completed as a part of a planned action and therefore not be assessed any associated fees. Project proponents who choose this option may not make use of or benefit from the up-front environmental review prepared by the local jurisdiction.

(4) Prior to the collection of fees, the county, city, or town must enact an ordinance that establishes the total amount of expenses to be recovered through fees and provides objective standards for determining the fee amount to be imposed upon each development proposal proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental review. The ordinance must provide: (a) A procedure by which an applicant who disagrees with whether the amount of the fee is correct, reasonable, or proportionate may pay the fee with the written stipulation "paid under protest"; and (b) if the county, city, or town provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeals process. Any disagreement about the reasonableness, proportionality, or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development.

(5) The ordinance adopted under subsection (4) of this section must make information available about the amount of the expenses designated for recovery. When these expenses have been fully recovered, the county, city, or town may no longer assess a fee under this section.

(6) Any fees collected under this section from subsequent development may be used to reimburse funding received from private sources to conduct the environmental review.

(7) The county, city, or town shall refund fees collected where a court of competent jurisdiction determines that the environmental review conducted under RCW 43.21C.440, regarding planned actions, or under RCW 43.21C.229, regarding infill development, was not sufficient to comply with the requirements of this chapter regarding the proposed development activity for which the fees were collected. The applicant and the county, city, or town may mutually agree to a partial refund or to waive the refund in the interest of

resolving any dispute regarding compliance with this chapter. [2013 c 243 § 1.]

43.21C.430 Certain fish protection standards exempt from compliance with chapter. The incorporation of fish protection standards adopted under chapter 77.55 RCW into the forest practices rules as required under RCW 76.09.040(3) is exempt from compliance with this chapter. [2012 1st sp.s. c 1 § 213.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

43.21C.440 Planned action—Defined—Authority of a county, city, or town—Community meetings. (1) For purposes of this chapter, a planned action means one or more types of development or redevelopment that meet the following criteria:

(a) Are designated as planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(b) In conjunction with, or to implement, a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or a fully contained community, a master planned resort, a master planned development, or a phased project, have had the significant impacts adequately addressed:

(i) In an environmental impact statement under the requirements of this chapter; or

(ii) In a threshold determination or, where one is appropriate, in an environmental impact statement under the requirements of this chapter, if the planned action contains mixed use or residential development and encompasses an area that:

(A) Is within one-half mile of a major transit stop; or

(B) Will be within one-half mile of a major transit stop no later than five years from the date of the designation of the planned action;

(c) Have had project level significant impacts adequately addressed in a threshold determination or, where one is required under (b) of this subsection or where otherwise appropriate, an environmental impact statement, unless the impacts are specifically deferred for consideration at the project level pursuant to subsection (3)(b) of this section;

(d) Are subsequent or implementing projects for the proposals listed in (b) of this subsection;

(e) Are located within an urban growth area designated pursuant to RCW 36.70A.110;

(f) Are not essential public facilities, as defined in RCW 36.70A.200, unless an essential public facility is accessory to or part of a residential, office, school, commercial, recreational, service, or industrial development that is designated a planned action under this subsection; and

(g) Are consistent with a comprehensive plan or subarea plan adopted under chapter 36.70A RCW.

(2) A county, city, or town shall define the types of development included in the planned action and may limit a planned action to:

(a) A specific geographic area that is less extensive than the jurisdictional boundaries of the county, city, or town; or

(b) A time period identified in the ordinance or resolution adopted under this subsection.

(3)(a) A county, city, or town shall determine during permit review whether a proposed project is consistent with a planned action ordinance adopted by the jurisdiction. To determine project consistency with a planned action ordinance, a county, city, or town may utilize a modified checklist pursuant to the rules adopted to implement RCW 43.21C.110, a form that is designated within the planned action ordinance, or a form contained in agency rules adopted pursuant to RCW 43.21C.120.

(b) A county, city, or town is not required to make a threshold determination and may not require additional environmental review, for a proposal that is determined to be consistent with the development or redevelopment described in the planned action ordinance, except for impacts that are specifically deferred to the project level at the time of the planned action ordinance's adoption. At least one community meeting must be held before the notice is issued for the planned action ordinance. Notice for the planned action and notice of the community meeting required by this subsection (3)(b) must be mailed or otherwise verifiably provided to: (i) All affected federally recognized tribal governments; and (ii) agencies with jurisdiction over the future development anticipated for the planned action. The determination of consistency, and the adequacy of any environmental review that was specifically deferred, are subject to the type of administrative appeal that the county, city, or town provides for the proposal itself consistent with RCW 36.70B.060.

(4) For a planned action ordinance that encompasses the entire jurisdictional boundary of a county, city, or town, at least one community meeting must be held before the notice is issued for the planned action ordinance. Notice for the planned action ordinance and notice of the community meeting required by this subsection must be mailed or otherwise verifiably provided to:

- (a) All property owners of record within the county, city, or town;
- (b) All affected federally recognized tribal governments; and
- (c) All agencies with jurisdiction over the future development anticipated for the planned action.

(5) For purposes of this section, "major transit stop" means a commuter rail stop, a stop on a rail or fixed guideway or transitway system, or a stop on a high capacity transportation service funded or expanded under chapter 81.104 RCW. [2017 3rd sp.s. c 16 § 7; 2012 1st sp.s. c 1 § 303.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

43.21C.450 Nonproject actions exempt from requirements of chapter. The following nonproject actions are categorically exempt from the requirements of this chapter:

(1) Amendments to development regulations that are required to ensure consistency with an adopted comprehensive plan pursuant to RCW 36.70A.040, where the comprehensive plan was previously subjected to environmental review pursuant to this chapter and the impacts associated

with the proposed regulation were specifically addressed in the prior environmental review;

(2) Amendments to development regulations that are required to ensure consistency with a shoreline master program approved pursuant to RCW 90.58.090, where the shoreline master program was previously subjected to environmental review pursuant to this chapter and the impacts associated with the proposed regulation were specifically addressed in the prior environmental review;

(3) Amendments to development regulations that, upon implementation of a project action, will provide increased environmental protection, limited to the following:

- (a) Increased protections for critical areas, such as enhanced buffers or setbacks;
 - (b) Increased vegetation retention or decreased impervious surface areas in shoreline jurisdiction; and
 - (c) Increased vegetation retention or decreased impervious surface areas in critical areas;
- (4) Amendments to technical codes adopted by a county, city, or town to ensure consistency with minimum standards contained in state law, including the following:
- (a) Building codes required by chapter 19.27 RCW;
 - (b) Energy codes required by chapter 19.27A RCW; and
 - (c) Electrical codes required by chapter 19.28 RCW.
- [2012 1st sp.s. c 1 § 307.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

43.21C.460 Environmental checklist—Authority of lead agency—Limitations of section. (1) The lead agency for an environmental review under this chapter utilizing an environmental checklist developed by the department of ecology pursuant to RCW 43.21C.110 may identify within the checklist provided to applicants instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority.

(2) If a lead agency identifies an instance as described in subsection (1) of this section, it still must consider whether the action has an impact on the particular element or elements of the environment in question.

(3) In instances where the locally adopted ordinance, development regulation, land use plan, or other legal authority provide the necessary information to answer a specific question, the lead agency must explain how the proposed project satisfies the underlying local legal authority.

(4) If the lead agency identifies instances where questions on the checklist are adequately covered by a locally adopted ordinance, development regulation, land use plan, or other legal authority, an applicant may still provide answers to any questions on the checklist.

(5) Nothing in this section authorizes a lead agency to ignore or delete a question on the checklist.

(6) Nothing in this section changes the standard for whether an environmental impact statement is required for an action that may have a probable significant, adverse environmental impact pursuant to RCW 43.21C.030.

(7) Nothing in this section affects the appeal provisions provided in this chapter.

(8) Nothing in this section modifies existing rules for determining the lead agency, as defined in WAC 197-11-922 through 197-11-948, nor does it modify agency procedures for complying with the state environmental policy act when an agency other than a local government is serving as the lead agency. [2012 1st sp.s. c 1 § 308.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

43.21C.470 Categorical exemption for structurally deficient bridges—Definition. (1) The department [of ecology] must amend the categorical exemption available to Washington department of transportation projects under WAC 197-11-800(26) as of July 24, 2015, so that the same categorical exemption applies to structurally deficient city, town, or county bridge repair or replacement projects.

(2) For purposes of this section, "structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency. [2015 c 144 § 1.]

43.21C.480 Repair or replacement of structurally deficient state bridges exempt from chapter. The repair or replacement of a state bridge deemed structurally deficient, as defined in RCW 47.04.010, is exempt from compliance with this chapter as long as the action occurs within the existing right-of-way, except that the repair or replacement may occur outside the existing right-of-way as needed to meet current engineering standards or state or local environmental permit requirements for highway construction as long as the repair or replacement does not result in additional lanes for automobiles. The issuance of applicable state and local agency permits or approvals associated with the repair or replacement of such bridges is also included in this exemption from compliance with this chapter. [2015 3rd sp.s. c 10 § 2.]

Effective date—2015 3rd sp.s. c 10: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 6, 2015]." [2015 3rd sp.s. c 10 § 5.]

Findings—Intent—2015 3rd sp.s. c 10: "The legislature finds that, as of November 2014, there were one hundred thirty state-owned bridges classified as structurally deficient. The legislature further finds that a span of the Skagit river bridge on Interstate 5, the Trooper Sean M. O'Connell Jr. Memorial bridge, recently collapsed when an oversized load struck the trusses that supported the bridge. Although the Skagit river bridge was not considered structurally deficient, this event underscores the importance of remedying bridge structural deficiencies as efficiently and expeditiously as possible. Thus, it is the intent of the legislature to provide for expedited permitting and contracting for state bridges identified as structurally deficient by the Washington state department of transportation." [2015 3rd sp.s. c 10 § 1.]

43.21C.490 Formation of community facilities districts exempt from this chapter. The formation of a community facilities district under chapter 36.145 RCW is

exempt from compliance with this chapter, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not otherwise exempt under state law or rule. [2019 c 260 § 2.]

43.21C.495 Adoption of ordinances, development regulations, and other nonproject actions—Certain actions not subject to administrative or judicial appeals.

Adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city to implement: The actions specified in section 2, chapter 246, Laws of 2022 unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat; and the increased residential building capacity actions identified in RCW 36.70A.600(1), with the exception of the action specified in RCW 36.70A.600(1)(f), are not subject to administrative or judicial appeals under this chapter. [2022 c 246 § 3; 2020 c 173 § 2; 2019 c 348 § 4.]

43.21C.501 Certain project actions evaluated under this chapter by a city or town planning under RCW 36.70A.040—When exempt from appeals under this chapter. (1) Project actions described in this section that pertain to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 are exempt from appeals under this chapter on the basis of the evaluation of or impacts to the following elements of the environment, provided that the appropriate requirements for a particular element of the environment, as set forth in subsections (2) and (3) of this section, are met.

(2)(a) Transportation. A project action pertaining to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to transportation elements of the environment, so long as the project is:

(i)(A) Consistent with a locally adopted transportation plan; or

(B) Consistent with the transportation element of a comprehensive plan; and

(ii)(A) A project for which traffic or parking impact fees are imposed pursuant to RCW 82.02.050 through 82.02.090; or

(B) A project for which traffic or parking impacts are mitigated by an ordinance, or ordinances, of general application adopted by the city or town.

(b) The exemption under this subsection (2) does not apply if the department of transportation has found that the project will present significant adverse impacts to the state-owned transportation system.

(3)(a) Aesthetics. A project action pertaining to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to the aesthetics element of the environment, so long as the project is subject to design review pursuant to adopted design review requirements at the local government level.

(b) Light and glare. A project action pertaining to residential, multifamily, or mixed-use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to the light and glare element of the environment, so long as the project is subject to design review pursuant to adopted design review requirements at the local government level.

(4) For purposes of this section:

(a) "Design review" means a formally adopted local government process by which projects are reviewed for compliance with design standards for the type of use adopted through local ordinance.

(b) "Impacts to transportation elements of the environment" include impacts to transportation systems; vehicular traffic; waterborne, rail, and air traffic; parking; movement or circulation of people or goods; and traffic hazards. [2022 c 246 § 4; 2019 c 348 § 6.]

43.21C.503 Exempt projects—Environmental checklist not required. Any applicant whose project qualifies as exempt or categorically exempt under either this chapter or under rules adopted pursuant to this chapter is not required to file an environmental checklist if other information is available to establish that a project qualifies for an exemption. [2022 c 246 § 6.]

43.21C.515 Projects permitted pursuant to RCW 77.55.480—Not subject to RCW 43.21C.030(2). (*Expires June 30, 2025.*) (1) A project that receives a permit pursuant to RCW 77.55.480 is not subject to the requirements of RCW 43.21C.030(2).

(2) This section expires June 30, 2025. [2021 c 75 § 3.]

Findings—Intent—2021 c 75: See note following RCW 77.55.480.

43.21C.520 Review of greenhouse gas emissions from a new or expanded facility. The review under this chapter of greenhouse gas emissions from a new or expanded facility subject to the greenhouse gas emission reduction requirements of chapter 70A.65 RCW must occur consistent with RCW 70A.65.080(9). [2021 c 316 § 34.]

Short title—2021 c 316: See RCW 70A.65.900.

43.21C.525 Model ordinances created under RCW 70A.207.030—Certain actions not subject to the requirements of this chapter. Amendments to regulations and other nonproject actions taken by a city or county to adopt or implement the model ordinance created by the department under RCW 70A.207.030 is not subject to the requirements of this chapter. [2022 c 180 § 406.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

43.21C.900 Short title. This chapter shall be known and may be cited as the "State Environmental Policy Act" or "SEPA". [1995 c 347 § 207; 1971 ex.s. c 109 § 7.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

(2022 Ed.)

43.21C.911 Section headings not part of law—1983 c 117. Section headings as used in this act do not constitute any part of the law. [1983 c 117 § 14.]

43.21C.912 Applicability—1983 c 117. Sections 3 and 4 of this act apply to agency decisions and to appeal proceedings prospectively only and not retrospectively. Sections 1, 5, 6, 7, and 8 of this act may be applied by agencies retrospectively. [1983 c 117 § 15.]

43.21C.914 Effective dates—1983 c 117. (1) Sections 1, 2, and 4 through 16 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [April 23, 1983].

(2) Section 3 of this act shall take effect one hundred eighty days after the remainder of this act goes into effect under subsection (1) of this section. [1983 c 117 § 17.]

Chapter 43.21E RCW GRASS BURNING RESEARCH ADVISORY COMMITTEE

Sections

- 43.21E.010 Committee created—Members.
- 43.21E.020 Duties of committee.
- 43.21E.030 Travel expenses.
- 43.21E.900 Termination and dissolution of committee.
- 43.21E.905 Reactivation of committee—Application of chapter.

Grass burning permits, etc.: RCW 70A.15.5090 through 70A.15.5110 and 70A.15.5170.

43.21E.010 Committee created—Members. Within thirty days of May 15, 1975 the director of the Washington state department of ecology shall appoint a grass burning research advisory committee consisting of five voting members.

Two members shall be grass growers selected from the area of the state east of the Cascade mountain range, one representing irrigated and one representing dryland growing areas. One member shall be a grass grower selected from the area of the state west of the Cascade mountain range. One member shall be a representative of the Washington state department of agriculture, and one member shall represent the public, and may be selected at large. The committee shall select its own chair. The state department of ecology shall provide an ex officio, nonvoting member to the committee to act as secretary. [2009 c 549 § 5097; 1975 1st ex.s. c 44 § 1.]

43.21E.020 Duties of committee. The grass burning research advisory committee as provided for in RCW 43.21E.010 shall solicit and review research proposals for reducing or to develop alternates to open burning of grass fields. The committee shall advise and make recommendations to the director of the Washington state department of ecology regarding research priorities and the expenditure of mandatory research permit fees and such other grass burning research funds that may be provided by the legislature or from any other sources. [1975 1st ex.s. c 44 § 2.]

43.21E.030 Travel expenses. Travel expenses shall be paid to the grass burning research advisory committee mem-

bers not otherwise employed by the state for meetings called by the director of the department of ecology in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended upon vouchers approved by said director and paid from funds budgeted for operation purposes of the state department of ecology. [1975-'76 2nd ex.s. c 34 § 102; 1975 1st ex.s. c 44 § 3.]

Additional notes found at www.leg.wa.gov

43.21E.900 Termination and dissolution of committee. It is the intent and purpose of this chapter that as soon as an alternative means of grass burning is developed for the state, or by January 1, 1980, whichever is sooner the grass burning research advisory committee shall be dissolved and its actions terminated, and the director of the state department of ecology shall see that such purpose is so carried out. [1975 1st ex.s. c 44 § 3.]

43.21E.905 Reactivation of committee—Application of chapter. Notwithstanding RCW 43.21E.900, within thirty days or after June 30, 1982, the director shall reactivate the grass burning research advisory committee by appointing new members to the committee. The provisions of this chapter, other than RCW 43.21E.900, shall apply to the reactivated committee. [1982 c 163 § 15.]

Additional notes found at www.leg.wa.gov

Chapter 43.21F RCW STATE ENERGY OFFICE

Sections

- 43.21F.010 Legislative findings and declaration.
- 43.21F.025 Definitions.
- 43.21F.045 Duties of department—Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings.
- 43.21F.055 Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity.
- 43.21F.060 Additional duties and authority of department—Obtaining information—Confidentiality, penalty—Receiving and expending funds.
- 43.21F.062 Renewable energy facilities in coastal and estuarine marine waters—Guidance.
- 43.21F.088 State energy strategy—Principles—Implementation.
- 43.21F.090 State energy strategy—Review and report to legislature—Energy strategy advisory committee.
- 43.21F.400 Western interstate nuclear compact—Entered into—Terms.
- 43.21F.405 Western interstate nuclear compact—State board member—Appointment, term—May designate representative.
- 43.21F.410 Western interstate nuclear compact—State and local agencies and officers to cooperate.
- 43.21F.415 Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state.
- 43.21F.420 Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state.

43.21F.010 Legislative findings and declaration. (1) The legislature finds that the state needs to implement a comprehensive energy planning process that:

- (a) Is based on high quality, unbiased analysis;
- (b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and

(c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase or decrease energy costs and efforts should be made to mitigate cost increases.

(3) The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

(4) The legislature further declares that a successful state energy strategy must balance three goals to:

(a) Maintain competitive energy prices that are fair and reasonable for consumers and businesses and support our state's continued economic success;

(b) Increase competitiveness by fostering a clean energy economy and jobs through business and workforce development; and

(c) Meet the state's obligations to reduce greenhouse gas emissions. [2010 c 271 § 401; 1975-'76 2nd ex.s. c 108 § 1.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Additional notes found at www.leg.wa.gov

43.21F.025 Definitions. (1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(6) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized; and

(7) "State energy strategy" means the document developed and updated by the department as allowed in RCW

43.21F.090. [2010 c 271 § 402. Prior: 2009 c 565 § 27; 1996 c 186 § 102; 1994 c 207 § 2; 1987 c 330 § 501; 1981 c 295 § 2.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: "The legislature finds that the state energy strategy presented to the legislature in 1993 was developed by a dedicated and talented committee of hard-working representatives of the industries and people of this state and that the strategy document should serve to guide energy-related policy decisions by the legislature and other entities within this region." [1994 c 207 § 1.]

Additional notes found at www.leg.wa.gov

43.21F.045 Duties of department—Transfer of powers and duties relating to energy education, applied research, technology transfer, and energy efficiency in public buildings. (1) The department shall supervise and administer energy-related activities as specified in RCW 43.330.904 and shall advise the governor and the legislature with respect to energy matters affecting the state.

(2) In addition to other powers and duties granted to the department, the department shall have the following powers and duties:

(a) Prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The department shall coordinate the activities undertaken pursuant to this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The department shall report to the governor and the legislature on probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(b) Establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(i) Supply, demand, costs, utilization technology, projections, and forecasts;

(ii) Comparative costs of alternative energy sources, uses, and applications; and

(iii) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(c) Coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(d) Develop energy policy recommendations for consideration by the governor and the legislature.

(e) Provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation

planning council. To the extent consistent with federal law, the director shall request that Washington's councilmembers request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(f) Cooperate with state agencies, other governmental units, and private interests in the prioritization and implementation of the state energy strategy elements and on other energy matters.

(g) Serve as the official state agency responsible for coordinating implementation of the state energy strategy.

(h) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, prepare and transmit to the governor and the appropriate committees of the legislature a report on the implementation of the state energy strategy and other important energy issues, as appropriate.

(i) Provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(j) Provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(k) Adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(l) Provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030.

(m) Appoint staff as may be needed to administer energy policy functions and manage energy facility site evaluation council activities. These employees are exempt from the provisions of chapter 41.06 RCW.

(3) To the extent the powers and duties set out under this section relate to energy education, applied research, and technology transfer programs they are transferred to Washington State University.

(4) To the extent the powers and duties set out under this section relate to energy efficiency in public buildings they are transferred to the department of enterprise services. [2015 c 225 § 73; 1996 c 186 § 103; 1994 c 207 § 4; 1990 c 12 § 2; 1987 c 505 § 29; 1981 c 295 § 4.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: See note following RCW 43.21F.025.

Additional notes found at www.leg.wa.gov

43.21F.055 Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity.

The department shall not intervene in any regulatory proceeding before the Washington utilities and transportation commission or proceedings of utilities not regulated by the commission. Nothing in this chapter abrogates or diminishes the functions, powers, or duties of the energy facility site evaluation council pursuant to chapter 80.50 RCW, the utilities and transportation commission pursuant to Title 80 RCW, or other state or local agencies established by law.

The department shall avoid duplication of activity with other state agencies and officers and other persons. [1996 c 186 § 104; 1981 c 295 § 5.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.21F.060 Additional duties and authority of department—Obtaining information—Confidentiality, penalty—Receiving and expending funds. In addition to the duties prescribed in RCW 43.21F.045, the department shall have the authority to:

(1) Obtain all necessary and existing information from energy producers, suppliers, and consumers, doing business within the state of Washington, from political subdivisions in this state, or any person as may be necessary to carry out the provisions of chapter 43.21G RCW: PROVIDED, That if the information is available in reports made to another state agency, the department shall obtain it from that agency: PROVIDED FURTHER, That, to the maximum extent practicable, informational requests to energy companies regulated by the utilities and transportation commission shall be channeled through the commission and shall be accepted in the format normally used by the companies. Such information may include but not be limited to:

- (a) Sales volume;
- (b) Forecasts of energy requirements; and
- (c) Energy costs.

Notwithstanding any other provision of law to the contrary, information furnished under this subsection shall be confidential and maintained as such, if so requested by the person providing the information, if the information is proprietary.

It shall be unlawful to disclose such information except as hereinafter provided. A violation shall be punishable, upon conviction, by a fine of not more than one thousand dollars for each offense. In addition, any person who willfully or with criminal negligence, as defined in RCW 9A.08.010, discloses confidential information in violation of this subsection may be subject to removal from office or immediate dismissal from public employment notwithstanding any other provision of law to the contrary.

Nothing in this subsection prohibits the use of confidential information to prepare statistics or other general data for publication when it is so presented as to prevent identification of particular persons or sources of confidential information.

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payments for services, and other devices in support of the duties enumerated in this chapter. [1996 c 186 § 105; 1981 c 295 § 6; 1975-'76 2nd ex.s. c 108 § 6.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

43.21F.062 Renewable energy facilities in coastal and estuarine marine waters—Guidance. (1) In addition to the duties prescribed in RCW 43.21F.045, the department must develop guidance applicable to all state agencies for achieving a unified state position upon matters involving the siting and operation of renewable energy facilities in the state's coastal and estuarine marine waters. The guidance must provide procedures for coordinating the views and responsibilities of any state agency with jurisdiction or expertise over the matter under consideration, which may include federal policy

proposals, activities, permits, licenses, or the extension of funding for activities in or affecting the state's marine waters. In developing the guidance, the director must consult with agencies with primary responsibilities for permitting and management of marine waters and bedlands, including the departments of natural resources, ecology, transportation, and fish and wildlife, and the state parks and recreation commission, the Puget Sound partnership, and the energy facility site evaluation council. The director must also consult and incorporate relevant information from the regional activities related to renewable energy siting in marine waters, including those under the west coast governors' agreement on ocean health.

(2) The director may not commence development of the guidance until federal, private, or other nonstate funding is secured for this activity. The director must adopt the guidance within one year of securing such funds.

(3) This section is intended to promote consistency and multiple agency coordination in developing positions and exercising jurisdiction in matters involving the siting and operation of renewable energy facilities and does not diminish or abrogate the authority or jurisdiction of any state agency over such matters established under any other law. [2010 c 145 § 9.]

43.21F.088 State energy strategy—Principles—Implementation. (1) The state shall use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon-neutral generation, and improving the transmission capacity serving the state;

(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department shall:

(a) During energy shortage emergencies, give priority in the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use. [2010 c 271 § 403.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.21F.090 State energy strategy—Review and report to legislature—Energy strategy advisory committee.

(1) The department shall review the state energy strategy by December 31, 2020, and at least once every eight years thereafter, subject to funding provided for this purpose, for the purpose of aligning the state energy strategy with the requirements of RCW 43.21F.088 and chapters 19.285 and 19.405 RCW, and the emission reduction targets recommended by the department of ecology under RCW 70A.45.040. The department must establish an energy strategy advisory committee for each review to provide guidance to the department in conducting the review. The membership of the energy strategy advisory committee must consist of the following:

(a) One person recommended by investor-owned electric utilities;

(b) One person recommended by investor-owned natural gas utilities;

(c) One person employed by or recommended by a natural gas pipeline serving the state;

(d) One person recommended by suppliers of petroleum products;

(e) One person recommended by municipally owned electric utilities;

(f) One person recommended by public utility districts;

(g) One person recommended by rural electrical cooperatives;

(h) One person recommended by industrial energy users;

(i) One person recommended by commercial energy users;

(j) One person recommended by agricultural energy users;

(k) One person recommended by the association of Washington cities;

(l) One person recommended by the Washington association of counties;

(m) One person recommended by Washington Indian tribes;

(n) One person recommended by businesses in the clean energy industry;

(o) One person recommended by labor unions;

(p) Two persons recommended by civic organizations, one of which must be a representative of a civic organization that represents vulnerable populations;

(q) Two persons recommended by environmental organizations;

(r) One person representing independent power producers;

(s) The chair of the energy facility site evaluation council or the chair's designee;

(t) One of the representatives of the state of Washington to the Pacific Northwest electric power and conservation planning council selected by the governor;

(u) The chair of the utilities and transportation commission or the chair's designee;

(v) One member from each of the two largest caucuses of the house of representatives selected by the speaker of the house of representatives; and

(w) One member from each of the two largest caucuses of the senate selected by the president of the senate.

(2) The chair of the advisory committee must be appointed by the governor from citizen members. The director may establish technical advisory groups as necessary to assist in the development of the strategy. The director shall provide for extensive public involvement throughout the development of the strategy.

(3) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. The energy strategy advisory committee established under this section must be dissolved within three months after their written report is conveyed. [2020 c 20 § 1042; 2019 c 288 § 22; 1996 c 186 § 106; 1994 c 207 § 5.]

Findings—Intent—Effective date—2019 c 288: See RCW 19.405.010 and 19.405.901.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—1994 c 207: See note following RCW 43.21F.025.

43.21F.400 Western interstate nuclear compact—

Entered into—Terms. The western interstate nuclear compact is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the

economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board" (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the

Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS

The Board shall have power to—

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or sub-contractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

ARTICLE VI. MUTUAL AID

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: PROVIDED, That nothing herein contained shall prevent any assisting party state from

assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

ARTICLE VII. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

ARTICLE VIII. OTHER LAWS AND RELATIONS

Nothing in this compact shall be construed to—

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a

party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

ARTICLE IX. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: PROVIDED, That it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the Constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof. [1969 c 9 § 1. Formerly RCW 43.31.400.]

Additional notes found at www.leg.wa.gov

(2022 Ed.)

43.21F.405 Western interstate nuclear compact—State board member—Appointment, term—May designate representative. The board member from Washington shall be appointed by and shall serve at the pleasure of the governor. The board member may designate another person as his or her representative to attend meetings of the board. [2009 c 549 § 5098; 1969 c 9 § 2. Formerly RCW 43.31.405.]

Additional notes found at www.leg.wa.gov

43.21F.410 Western interstate nuclear compact—State and local agencies and officers to cooperate. All departments, agencies and officers of this state and its subdivisions are directed to cooperate with the board in the furtherance of any of its activities pursuant to the compact. [1969 c 9 § 3. Formerly RCW 43.31.410.]

Additional notes found at www.leg.wa.gov

43.21F.415 Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state. Pursuant to Article II(j) of the compact, the western interstate nuclear board shall file copies of its bylaws and any amendments thereto with the secretary of state of the state of Washington. [1969 c 9 § 4. Formerly RCW 43.31.415.]

Additional notes found at www.leg.wa.gov

43.21F.420 Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state. The laws of the state of Washington and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state pursuant to Article VI of the compact. If the aiding personnel are officers or employees of the state of Washington or any subdivisions thereof, they shall be entitled to the same workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment. [1987 c 185 § 15; 1969 c 9 § 5. Formerly RCW 43.31.420.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Additional notes found at www.leg.wa.gov

Chapter 43.21G RCW

ENERGY SUPPLY EMERGENCIES, ALERTS

Sections

- 43.21G.010 Legislative finding—Intent.
- 43.21G.020 Definitions.
- 43.21G.030 Intent in developing energy production, allocation, and consumption programs.
- 43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter.
- 43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions.
- 43.21G.060 Consideration of actions, orders, etc., of federal authorities.
- 43.21G.070 Compliance by affected persons.
- 43.21G.080 Compliance by distributors—Fair and just reimbursement.
- 43.21G.090 Petition for exception or modification—Appeals.
- 43.21G.100 Penalty.
- 43.21G.900 Severability—Effective date—1975-'76 2nd ex.s. c 108.

Governor's powers to declare energy emergency, etc.: RCW 43.06.200, 43.06.210.

43.21G.010 Legislative finding—Intent. The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation, and that without the ability to institute appropriate emergency measures to regulate the production, distribution, and use of energy, a severe impact on the public health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of such energy shortages or disruptions and their effects is necessary for preservation of the public health, safety, and general welfare of the citizens of this state.

It is the intent of this chapter to:

(1) Establish necessary emergency powers for the governor and define the situations under which such powers are to be exercised;

(2) Provide penalties for violations of this chapter.

It is further the intent of the legislature that in developing proposed orders under the powers granted in RCW 43.21G.040 as now or hereafter amended the governor may utilize, on a temporary or ad hoc basis, the knowledge and expertise of persons experienced in the technical aspects of energy supply, distribution, or use. Such utilization shall be in addition to support received by the governor from the *department of community, trade, and economic development under RCW 43.21F.045 and **43.21F.065 and from other state agencies. [1996 c 186 § 507; 1981 c 295 § 11; 1977 ex.s. c 328 § 1; 1975-'76 2nd ex.s. c 108 § 15.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

** (2) RCW 43.21F.065 was repealed by 1996 c 186 § 524, effective July 1, 1996.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Additional notes found at www.leg.wa.gov

43.21G.020 Definitions. As used in this chapter:

(1) "Energy supply facility" means a facility which produces, extracts, converts, transports, or stores energy.

(2) "Energy" means any of the following, individually or in combination: Petroleum fuels; other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material, or electricity.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency or any other entity, public or private, however organized.

(4) "Committee" means the *joint committee on energy and utilities created by RCW 44.39.010 as now or hereafter amended.

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, joint operating agencies, municipal utility, public utility district, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(6) "Regulated distributor" means a public service company as defined in chapter 80.04 RCW which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(7) "Energy supply alert" means a situation which threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized.

(8) "Energy emergency" means a situation in which the unavailability or disruption of the supply of energy poses a clear and foreseeable danger to the public health, safety, and general welfare.

(9) "State or local governmental agency" means any county, city, town, municipal corporation, political subdivision of the state, or state agency. [1977 ex.s. c 328 § 2; 1975-'76 2nd ex.s. c 108 § 16.]

***Reviser's note:** The "joint committee on energy and utilities" was changed to the "joint committee on energy supply" by 2001 c 214 § 30. The "joint committee on energy supply" was changed to the "joint committee on energy supply and energy conservation" by 2005 c 299 § 1.

Additional notes found at www.leg.wa.gov

43.21G.030 Intent in developing energy production, allocation, and consumption programs. It is the intent of the legislature that the governor shall, in developing plans for the production, allocation, and consumption of energy, give high priority to supplying vital public services including, but not limited to, essential governmental operations, public health and safety functions, emergency services, public mass transportation systems, fish production, food production and processing facilities, including the provision of water to irrigated agriculture, and energy supply facilities, during a condition of energy supply alert or energy emergency. In developing any such plans, provisions should be made for the equitable distribution of energy among the geographic areas of the state.

It is further the intent of the legislature that the governor shall, to the extent possible, encourage and rely upon voluntary programs and local and regional programs for the production, allocation, and consumption of energy and that involvement of energy users and producers be secured in implementing such programs. [1977 ex.s. c 328 § 3; 1975-'76 2nd ex.s. c 108 § 17.]

Additional notes found at www.leg.wa.gov

43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter. (1) The governor may subject to the definitions and limitations provided in this chapter:

(a) Upon finding that an energy supply alert exists within this state or any part thereof, declare a condition of energy supply alert; or

(b) Upon finding that an energy emergency exists within this state or any part thereof, declare a condition of energy emergency. A condition of energy emergency shall terminate thirty consecutive days after the declaration of such condition if the legislature is not in session at the time of such declaration and if the governor fails to convene the legislature pursuant to Article III, section 7 of the Constitution of the state of Washington within thirty consecutive days of such declaration. If the legislature is in session or convened, in accordance with this subsection, the duration of the condition of energy emergency shall be limited in accordance with subsection (3) of this section.

Upon the declaration of a condition of energy supply alert or energy emergency, the governor shall present to the committee any proposed plans for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The governor shall review any recommendations of the committee concerning such plans and matters.

Upon the declaration of a condition of energy supply alert or energy emergency, the emergency powers as set forth in this chapter shall become effective only within the area described in the declaration.

(2) A condition of energy supply alert shall terminate ninety consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy supply alert continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy supply alert.

An initial extension of an energy supply alert approved and implemented under this subsection shall be for a specified period of time not to exceed ninety consecutive days after the expiration of the original declaration. Any subsequent extensions shall be for a specified period of time not to exceed one hundred twenty consecutive days after the expiration of the previous extension.

(3) A condition of energy emergency shall terminate forty-five consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy emergency continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy emergency.

An initial extension of an energy emergency approved and implemented under this subsection shall be for a specified period of time not to exceed forty-five consecutive days after the expiration of the original declaration. Any subsequent extensions shall be for a specified period of time not to exceed sixty consecutive days after the expiration of the previous extension.

(4) A condition of energy supply alert or energy emergency shall cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or special session: PROVIDED, That the governor shall terminate a condition of energy supply alert or energy emergency when the energy supply situation upon which the declaration of a condition of

energy supply alert or energy emergency was based no longer exists.

(5) In a condition of energy supply alert, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such energy supply alert, issue orders to: (a) Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy, and (b) direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee.

(6) In addition to the powers in subsection (5) of this section, in a condition of energy emergency, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency, issue orders to: (a) Implement programs, controls, standards, and priorities for the production, allocation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

(7) The governor shall make a reasonable, good faith effort to provide the committee with notice when the governor is considering declaring a condition of energy supply alert or energy emergency. The governor shall immediately transmit the declaration of a condition of energy supply alert or energy emergency and the findings upon which the declaration is based and any orders issued under the powers granted in this chapter to the committee. The governor shall provide the committee with at least fourteen days' notice when requesting an extension of a condition of energy supply alert or energy emergency, unless such notice is waived by the committee.

(8) Nothing in this chapter shall be construed to mean that any program, control, standard, priority or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of the condition of energy supply alert or energy emergency.

(9) If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, including, but not limited to, chapter 34.05 RCW, this chapter shall govern and control, and such other law or rule issued thereunder shall be deemed superseded for the purposes of this chapter.

(10) Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the state environmental policy act of 1971, chapter 43.21C RCW, including, but

not limited to, the requirement for environmental impact statements.

(11) Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor. [2002 c 192 § 2; 1987 c 505 § 83; 1985 c 308 § 1; 1981 c 281 § 1; 1980 c 87 § 23; 1979 ex.s. c 158 § 1; 1977 ex.s. c 328 § 4; 1975-'76 2nd ex.s. c 108 § 18.]

Additional notes found at www.leg.wa.gov

43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions. To protect the public welfare during a condition of energy supply alert or energy emergency, the executive authority of each state or local governmental agency is hereby authorized and directed to take action to carry out the orders issued by the governor pursuant to this chapter as now or hereafter amended. A local governmental agency shall not be liable for any lawful actions consistent with RCW 43.21G.030 as now or hereafter amended taken in good faith in accordance with such orders issued by the governor. [1981 c 281 § 2; 1977 ex.s. c 328 § 5; 1975-'76 2nd ex.s. c 108 § 19.]

Additional notes found at www.leg.wa.gov

43.21G.060 Consideration of actions, orders, etc., of federal authorities. In order to attain uniformity, as far as is practicable throughout the United States, in measures taken to aid in energy crisis management, all action taken under this chapter as now or hereafter amended, and all orders and rules made pursuant hereto, shall be taken or made with due consideration for and consistent when practicable with the orders, rules, regulations, actions, recommendations, and requests of federal authorities. [1977 ex.s. c 328 § 6; 1975-'76 2nd ex.s. c 108 § 20.]

Additional notes found at www.leg.wa.gov

43.21G.070 Compliance by affected persons. Notwithstanding any provision of law or contract to the contrary, all persons who are affected by an order issued or action taken pursuant to this chapter as now or hereafter amended shall comply therewith immediately. [1977 ex.s. c 328 § 7; 1975-'76 2nd ex.s. c 108 § 21.]

Additional notes found at www.leg.wa.gov

43.21G.080 Compliance by distributors—Fair and just reimbursement. The governor may order any distributor to take such action on his or her behalf as may be required to implement orders issued pursuant to this chapter as now or hereafter amended: PROVIDED, That orders to regulated distributors shall be issued by the Washington utilities and transportation commission in conformance with orders of the governor. No distributor shall be liable for actions taken in accordance with such orders issued by the governor or the Washington utilities and transportation commission.

All allocations of energy from one distributor to another distributor pursuant to orders issued or as a result of actions taken under this chapter as now or hereafter amended are subject to fair and just reimbursement. Such reimbursement for any allocation of energy between regulated distributors shall be subject to the approval of the Washington utilities and

transportation commission. A distributor is authorized to enter into agreements with another distributor for the purpose of determining financial or commodity reimbursement. [2009 c 549 § 5099; 1977 ex.s. c 328 § 8; 1975-'76 2nd ex.s. c 108 § 22.]

Additional notes found at www.leg.wa.gov

43.21G.090 Petition for exception or modification—Appeals. (1) Any person aggrieved by an order issued or action taken pursuant to this chapter as now or hereafter amended may petition the governor and request an exception from or modification of such order or action. The governor may grant, modify, or deny such petition as the public interest may require.

(2) An appeal from any order issued or action taken pursuant to this chapter as now or hereafter amended may be taken to the state supreme court. Such an appeal shall take the form of a petition for a writ of mandamus or prohibition under Article IV, section 4 of the state Constitution, and the supreme court shall have exclusive jurisdiction to hear and act upon such an appeal. Notwithstanding the provisions of chapter 7.16 RCW, or any other applicable statute, the superior courts of this state shall have no jurisdiction to entertain an action or suit relating to any order issued or action taken pursuant to this chapter as now or hereafter amended, nor to hear and determine any appeal from any such order. The provisions of Rule 16.2, Rules of Appellate Procedure, shall apply to any proceedings in the supreme court brought pursuant to this chapter as now or hereafter amended. [1977 ex.s. c 328 § 9; 1975-'76 2nd ex.s. c 108 § 23.]

Additional notes found at www.leg.wa.gov

43.21G.100 Penalty. Any person wilfully violating any provision of an order issued by the governor pursuant to this chapter shall be guilty of a gross misdemeanor. [1975-'76 2nd ex.s. c 108 § 24.]

43.21G.900 Severability—Effective date—1975-'76 2nd ex.s. c 108. See notes following RCW 43.21F.010.

Chapter 43.21H RCW STATE ECONOMIC POLICY

Sections

- 43.21H.010 Purpose.
- 43.21H.020 State and local authorities to insure that economic impacts and values be given appropriate consideration in rule-making process.
- 43.21H.030 Statutory obligations of agencies not affected.

43.21H.010 Purpose. The purpose of this chapter is to assert that it is the intent of the legislature that economic values are given appropriate consideration along with environmental, social, health, and safety considerations in the promulgation of rules by state and local government. [1975-'76 2nd ex.s. c 117 § 1.]

43.21H.020 State and local authorities to insure that economic impacts and values be given appropriate consideration in rule-making process. The legislature finds that agency and local government decisions can have negative economic consequences for businesses, particularly

small businesses, as well as for employees of those businesses. All state agencies and local government entities with rule-making authority under state law or local ordinance must adopt methods and procedures which will insure that economic impacts and values will be given appropriate consideration in the rule-making process along with environmental, social, health, and safety considerations. [2011 c 249 § 1; 1975-'76 2nd ex.s. c 117 § 2.]

43.21H.030 Statutory obligations of agencies not affected. Nothing in this chapter shall in any way affect the specific statutory obligations of any agency:

- (1) To comply with environmental, social, health, safety, or other standards prescribed by law;
- (2) To coordinate or consult with any other public agency; or
- (3) To act, or refrain from acting, where required by law, upon the recommendations or certification of another public agency. [1975-'76 2nd ex.s. c 117 § 3.]

Chapter 43.211 RCW

OIL SPILL PREVENTION PROGRAM

Sections

43.211.010	Program created—Powers and duties—Definitions.
43.211.030	Director's powers.
43.211.040	Authority to administer oaths and issue subpoenas.
43.211.900	Effective dates—1991 c 200.

Abolishment of office: RCW 88.46.921.

43.211.010 Program created—Powers and duties—

Definitions. (1) There is hereby created within the department of ecology an oil spill prevention program. For the program, the department shall be vested with all powers and duties transferred to it from the *office of marine safety and such other powers and duties as may be authorized by law. The main administrative office for the program shall be located in the city of Olympia. The director may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the program, and if consistent with the principles set forth in subsection (2) of this section.

(2) The oil spill prevention program shall be organized consistent with the goals of providing state government with a focus in marine transportation and serving the people of this state. The legislature recognizes that the director needs sufficient organizational flexibility to carry out the program's various duties. To the extent practical, the director shall consider the following organizational principles:

- (a) Clear lines of authority which avoid functional duplication within and between subelements of the program;
 - (b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and
 - (c) Maximum span of control without jeopardizing adequate supervision.
- (3) The department, through the program, shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

(a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Providing expert advice to the executive and legislative branches of state government;

(c) Providing active and fair enforcement of rules;

(d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;

(e) Providing information to the public; and

(f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the director may create such administrative divisions, offices, bureaus, and programs within the program as the director deems necessary. The director shall have complete charge of and supervisory powers over the program, except where the director's authority is specifically limited by law.

(6) The director shall appoint such personnel as are necessary to carry out the duties of the program. In addition to exemptions set forth in RCW 41.06.070, up to four professional staff members shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the program shall be subject to the provisions of chapter 41.06 RCW.

(7) The definitions in this section apply throughout this chapter.

(a) "Department" means the department of ecology.

(b) "Director" means the director of the department. [2000 c 69 § 27; 1992 c 73 § 4; (1995 2nd sp.s. c 14 § 515 expired June 30, 1997); 1991 c 200 § 402. Formerly RCW 43.21A.710.]

***Reviser's note:** The office of marine safety was abolished and its powers, duties, and functions transferred to the department of ecology by 1991 c 200 § 430, effective July 1, 1997.

Additional notes found at www.leg.wa.gov

43.211.030 Director's powers. In addition to any other powers granted the director, the director may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The director shall review each advisory committee within the jurisdiction of the program and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in *RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the program to employees of the department as the director deems necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the department to carry out the purposes of this chapter and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of this chapter and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds. [2000 c 69 § 28; 1992 c 73 § 11; (1995 2nd sp.s. c 14 § 516 expired June 30, 1997); 1991 c 200 § 405. Formerly RCW 43.21A.715.]

*Reviser's note: RCW 43.131.070 was repealed by 2000 c 189 § 11.

Additional notes found at www.leg.wa.gov

43.211.040 Authority to administer oaths and issue subpoenas. (1) The director shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the director together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW. [2000 c 69 § 29; 1991 c 200 § 407; (1995 2nd sp.s. c 14 § 517 expired June 30, 1997). Formerly RCW 43.21A.720.]

Additional notes found at www.leg.wa.gov

43.211.900 Effective dates—1991 c 200. See RCW 90.56.901.

Chapter 43.21J RCW

ENVIRONMENTAL AND FOREST RESTORATION PROJECTS

Sections

43.21J.005	Legislative findings.
43.21J.010	Intent—Purpose—Definitions.
43.21J.030	Environmental enhancement and job creation task force.
43.21J.040	Environmental enhancement and restoration project proposals—Evaluation—Award of funds.
43.21J.050	Training or employment.
43.21J.060	Unemployment compensation benefits—Training.
43.21J.070	Unemployment compensation benefits—Special base year and benefit year.
43.21J.800	Joint legislative audit and review committee report.
43.21J.900	Short title—1993 c 516.
43.21J.901	Section captions and part headings—1993 c 516.
43.21J.903	Conflict with federal requirements—1993 c 516.
43.21J.904	Effective date—1993 c 516.

43.21J.005 Legislative findings. (1) The legislature finds that the long-term health of the economy of Washington state depends on the sustainable management of its natural resources. Washington's forests, estuaries, waterways, and watersheds provide a livelihood for thousands of citizens of Washington state and millions of dollars of income and tax

revenues every year from forests, fisheries, shellfisheries, recreation, tourism, and other water-dependent industries.

(2) The legislature further finds that the livelihoods and revenues produced by Washington's forests, estuaries, waterways, and watersheds would be enhanced by immediate investments in clean water infrastructure and habitat restoration.

(3) The legislature further finds that an insufficiency in financial resources, especially in timber-dependent communities, has resulted in investments in clean water and habitat restoration too low to ensure the long-term economic and environmental health of Washington's forests, estuaries, waterways, and watersheds.

(4) The legislature further finds that unemployed workers and Washington's economically distressed communities, especially timber-dependent areas, can benefit from opportunities for employment in environmental restoration projects.

(5) The legislature therefore declares that immediate investments in a variety of environmental restoration projects, based on sound principles of watershed management and environmental and forest restoration, are necessary to rehabilitate damaged watersheds and to assist dislocated workers and the unemployed gain job skills necessary for long-term employment. [1993 c 516 § 1.]

43.21J.010 Intent—Purpose—Definitions. (1) It is the intent of this chapter to provide financial resources to make substantial progress toward: (a) Implementing the Puget Sound water quality management plan and other watershed-based management strategies and plans; (b) ameliorating degradation to watersheds; and (c) keeping and creating stable, environmentally sound, good wage employment in Washington state. The legislature intends that employment under this chapter is not to result in the displacement or partial displacement, whether by the reduction of hours of non-overtime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

(2) It is the purpose of this chapter to:

(a) Implement clean water, forest, and habitat restoration projects that will produce measurable improvements in water and habitat quality, that rate highly when existing environmental ranking systems are applied, and that provide economic stability.

(b) Facilitate the coordination and consistency of federal, state, tribal, local, and private water and habitat protection and enhancement programs in the state's watersheds.

(c) Fund necessary projects for which a public planning process has been completed.

(d) Provide immediate funding to create jobs and training for environmental restoration and enhancement jobs for unemployed workers and displaced workers in impact areas, especially rural natural resources-dependent communities.

(3) For purposes of this chapter "impact areas" means: (a) Distressed counties as defined in *RCW 43.168.020; and (b) areas that the task force determines are likely to experience dislocations in the near future from downturns in natural resource-based industries.

(4) For purposes of this chapter, "high-risk youth" means youth eligible for Washington conservation corps programs

under chapter 43.220 RCW or Washington service corps programs under chapter 50.65 RCW.

(5) For purposes of this chapter, "dislocated forest products worker" has the meaning set forth in **RCW 50.70.010.

(6) For purposes of this chapter, "task force" means the environmental enhancement and job creation task force created under RCW 43.21J.030. [2005 c 136 § 1; 1995 c 226 § 26; 1993 c 516 § 2.]

Reviser's note: *(1) RCW 43.168.020 defines "distressed area."

***(2) RCW 50.70.010 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Additional notes found at www.leg.wa.gov

43.21J.030 Environmental enhancement and job creation task force. (1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the workforce training and education coordinating board, and the executive director of the Puget Sound partnership, or their designees. The task force may seek the advice of the following agencies and organizations: The *department of community, trade, and economic development, the conservation commission, the employment security department, the recreation and conservation office, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the **environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in **RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts. [2007 c 341 § 62; 2007 c 241 § 4; 1998 c 245 § 60; 1994 c 264 § 17; 1993 c 516 § 5.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

***(2) The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

(3) This section was amended by 2007 c 241 § 4 and by 2007 c 341 § 62, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.21J.040 Environmental enhancement and restoration project proposals—Evaluation—Award of funds.

(1) Subject to the limitations of *RCW 43.21J.020, the task force shall award funds from the *environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, stormwater management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to rules adopted by the agency then

known as the **Puget Sound water quality authority** for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education. [2007 c 341 § 63; 1993 c 516 § 4.]

Reviser's note: *(1) The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

***(2) The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903. For later enactment regarding the Puget Sound partnership, see chapter 90.71 RCW.

Additional notes found at www.leg.wa.gov

43.21J.050 Training or employment. (1) Eligibility for training or employment in projects funded through the **environmental and forest restoration account** shall, to the extent practicable, be for workers who are currently unemployed.

(2) To the greatest extent practicable, the following groups of individuals shall be given preference for training or employment in projects funded through the **environmental and forest restoration account**:

(a) Dislocated workers who are receiving unemployment benefits or have exhausted unemployment benefits; and

(b) High-risk youth.

(3) Projects funded for forest restoration shall be for workers whose employment was terminated in the Washington forest products industry within the previous four years.

(4) The task force shall submit a list to private industry councils and the employment security department of projects receiving funds under the provisions of this chapter. The list shall include the number, location, and types of jobs expected to be provided by each project. The employment security department shall recruit workers for these jobs by:

(a) Notifying dislocated forest workers who meet the definitions in chapter 50.70 RCW, who are receiving unemployment benefits or who have exhausted unemployment benefits, of their eligibility for the programs;

(b) Notifying other unemployed workers;

(c) Developing a pool of unemployed workers including high-risk youth eligible to enroll in the program; and

(d) Establishing procedures for workers to apply to the programs.

(5) The employment security department shall refer eligible workers to employers hiring under the **environmental and forest restoration account** programs. Recipients of funds shall consider the list of eligible workers developed by the employment security department before conducting interviews or making hiring decisions. Recipients of funds shall ensure that workers are aware of whatever opportunities for

vocational training, job placement, and remedial education are available from the employment security department.

(6) An individual is eligible for applicable employment security benefits while participating in training related to this chapter. Eligibility shall be confirmed by the commissioner of employment security by submitting a commissioner-approved training waiver.

(7) Persons receiving funds from the **environmental and forest restoration account** shall not be considered state employees for the purposes of existing provisions of law with respect to hours of work, sick leave, vacation, and civil service but shall receive health benefits. Persons receiving funds from this account who are hired by a state agency, except for Washington conservation and service corps enrollees, shall receive medical and dental benefits as provided under chapter 41.05 RCW and industrial insurance coverage under Title 51 RCW, but are exempt from the provisions of chapter 41.06 RCW.

(8) Compensation for employees, except for Washington conservation and service corps enrollees, hired under the program established by this chapter shall be based on market rates in accordance with the required skill and complexity of the jobs created. Remuneration paid to employees under this chapter shall be considered covered employment for purposes of chapter 50.04 RCW.

(9) Employment under this program shall not result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services. [1993 c 516 § 8.]

Reviser's note: The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

43.21J.060 Unemployment compensation benefits—Training. An individual shall be considered to be in training with the approval of the commissioner as defined in RCW 50.20.043, and be eligible for applicable unemployment insurance benefits while participating in and making satisfactory progress in training related to this chapter. [1993 c 516 § 9.]

43.21J.070 Unemployment compensation benefits—Special base year and benefit year. For the purpose of providing the protection of the unemployment compensation system to individuals at the conclusion of training or employment obtained as a result of this chapter, a special base year and benefit year are established.

(1) Only individuals who have entered training or employment provided by the **environmental and forest restoration account**, and whose employment or training under such account was not considered covered under chapter 50.04 RCW, shall be allowed the special benefit provisions of this chapter.

(2) An application for initial determination made under this chapter must be filed in writing with the employment security department within twenty-six weeks following the week in which the individual commenced employment or training obtained as a result of this chapter. Notice from the individual, from the employing entity, or notice of hire from

employment security department administrative records shall satisfy this requirement.

(3) For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters, or if a benefit year is not established using the first four of the last five completed calendar quarters as the base year, the last four completed calendar quarters immediately prior to the first day of the calendar week in which the individual began employment or training provided by the *environmental and forest restoration account.

(4) A special individual benefit year is established consisting of the entire period of training or employment provided by the *environmental and forest restoration account and a fifty-two consecutive week period commencing with the first day of the calendar week in which the individual last participated in such employment or training. No special benefit year shall have a duration in excess of three hundred twelve calendar weeks. Such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year may elect to establish a special benefit year under this chapter, notwithstanding the provisions in RCW 50.04.030 relating to establishment of a subsequent benefit year, and RCW 50.40.010 relating to waiver of rights. Such unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish a special benefit year under this chapter.

(5) The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provisions contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and rules relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter.

(6) The fact that wages, hours, or weeks worked during the special base year may have been used in computation of a prior valid claim for unemployment compensation shall not affect a claim for benefits made under the provisions of this chapter. However, wages, hours, and weeks worked used in computing entitlement on a claim filed under this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year.

(7) Benefits paid to an individual filing under the provisions of this section shall not be charged to the experience rating account of any contribution paying employer. [1993 c 516 § 10.]

***Reviser's note:** The "environmental and forest restoration account" was created in RCW 43.21J.020 which was repealed by 2000 c 150 § 2, effective July 1, 2001.

43.21J.800 Joint legislative audit and review committee report. On or before June 30, 1998, the joint legislative audit and review committee shall prepare a report to the legislature evaluating the implementation of the environmental restoration jobs act of 1993, chapter 516, Laws of 1993. [1996 c 288 § 36; 1993 c 516 § 11.]

(2022 Ed.)

43.21J.900 Short title—1993 c 516. This act shall be known as the environmental restoration jobs act of 1993. [1993 c 516 § 15.]

43.21J.901 Section captions and part headings—1993 c 516. Section captions and part headings as used in this act constitute no part of the law. [1993 c 516 § 16.]

43.21J.903 Conflict with federal requirements—1993 c 516. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1993 c 516 § 19.]

43.21J.904 Effective date—1993 c 516. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 516 § 20.]

Chapter 43.21K RCW ENVIRONMENTAL EXCELLENCE PROGRAM AGREEMENTS

Sections

- 43.21K.005 Purpose—1997 c 381.
- 43.21K.010 Definitions.
- 43.21K.020 Agreements—Environmental results.
- 43.21K.030 Authority for agreements—Restrictions.
- 43.21K.040 Proposals for agreements.
- 43.21K.050 Stakeholder participation.
- 43.21K.060 Terms and conditions of agreements.
- 43.21K.070 Public comment—Notice—Responsiveness summary—Copy to federal agency.
- 43.21K.080 Effect of agreements on legal requirements and permits—Permit revisions—Programmatic agreements.
- 43.21K.090 Judicial review.
- 43.21K.100 Continued effect of agreements and permits—Modification of affected permit or approval.
- 43.21K.110 Enforceable and voluntary commitments—Enforcement actions.
- 43.21K.120 Reduced fee schedule.
- 43.21K.130 Rule-making authority.
- 43.21K.140 Advisory committee.
- 43.21K.150 Costs of processing proposals—Fees—Voluntary contributions.
- 43.21K.160 Termination of authority to enter into agreements.

43.21K.005 Purpose—1997 c 381. The purpose of chapter 381, Laws of 1997 is to create a voluntary program authorizing environmental excellence program agreements with persons regulated under the environmental laws of the state of Washington, and to direct agencies of the state of Washington to solicit and support the development of agreements that use innovative environmental measures or strategies to achieve environmental results more effectively or efficiently.

Agencies shall encourage environmental excellence program agreements that favor or promote pollution prevention, source reduction, or improvements in practices that are trans-

ferable to other interested entities or that can achieve better overall environmental results than required by otherwise applicable rules and requirements.

In enacting chapter 381, Laws of 1997 it is not the intent of the legislature that state environmental standards be applied in a manner that could result in these state standards being waived under section 121 of the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9261 [9621]). [1997 c 381 § 1.]

43.21K.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "State, regional, or local agency" means an agency, board, department, authority, or commission that administers environmental laws.

(2) "Coordinating agency" means the state, regional, or local agency with the primary regulatory responsibility for the proposed environmental excellence program agreement. If multiple agencies have jurisdiction to administer state environmental laws affected by an environmental excellence agreement, the department of ecology shall designate or act as the coordinating agency.

(3) "Director" means the individual or body of individuals in whom the ultimate legal authority of an agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the director.

(4) "Environmental laws" means chapters 43.21A, 70A.15, 70A.205, 70A.300, 70A.125, 77.55, 90.48, 90.52, 90.58, 90.64, and 90.71 RCW, and RCW 90.54.020(3)(b) and rules adopted under those chapters and section. The term environmental laws as used in this chapter does not include any provision of the Revised Code of Washington, or of any municipal ordinance or enactment, that regulates the selection of a location for a new facility.

(5) "Facility" means a site or activity that is regulated under any of the provisions of the environmental laws.

(6) "Legal requirement" includes any provision of an environmental law, rule, order, or permit.

(7) "Sponsor" means the owner or operator of a facility, including a municipal corporation, subject to regulation under the environmental laws of the state of Washington, or an authorized representative of the owner or operator, that submits a proposal for an environmental excellence program agreement.

(8) "Stakeholder" means a person who has a direct interest in the proposed environmental excellence program agreement or who represents a public interest in the proposed environmental excellence program agreement. Stakeholders may include communities near the project, local or state governments, permittees, businesses, environmental and other public interest groups, employees or employee representatives, or other persons. [2021 c 65 § 39; 2003 c 39 § 25; 1997 c 381 § 2.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

43.21K.020 Agreements—Environmental results. An environmental excellence program agreement entered into under this chapter must achieve more effective or effi-

cient environmental results than the results that would be otherwise achieved. The basis for comparison shall be a reasonable estimate of the overall impact of the participating facility on the environment in the absence of an environmental excellence program agreement. More effective environmental results are results that are better overall than those that would be achieved under the legal requirements superseded or replaced by the agreement. More efficient environmental results are results that are achieved at reduced cost but do not decrease the overall environmental results achieved by the participating facility. An environmental excellence program agreement may not authorize either (1) the release of water pollutants that will cause to be exceeded, at points of compliance in the ambient environment established pursuant to law, numeric surface water or groundwater quality criteria or numeric sediment quality criteria adopted as rules under chapter 90.48 RCW; or (2) the emission of any air contaminants that will cause to be exceeded any air quality standard as defined in RCW 70A.15.1030(3); or (3) a decrease in the overall environmental results achieved by the participating facility compared with results achieved over a representative period before the date on which the agreement is proposed by the sponsor. However, an environmental excellence program agreement may authorize reasonable increases in the release of pollutants to permit increases in facility production or facility expansion and modification. [2021 c 65 § 40; 1997 c 381 § 3.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

43.21K.030 Authority for agreements—Restrictions.

(1) The director of a state, regional, or local agency may enter into an environmental excellence program agreement with any sponsor, even if one or more of the terms of the environmental excellence program agreement would be inconsistent with an otherwise applicable legal requirement. An environmental excellence program agreement must meet the requirements of RCW 43.21K.020. Otherwise applicable legal requirements identified according to RCW 43.21K.060(1) shall be superseded and replaced in accordance with RCW 43.21K.080.

(2) The director of a state, regional, or local agency may enter into an environmental excellence program agreement only to the extent the state, regional, or local agency has jurisdiction to administer state environmental laws either directly or indirectly through the adoption of rules.

(3) Where a sponsor proposes an environmental excellence program agreement that would affect legal requirements applicable to the covered facility that are administered by more than one state, regional, or local agency, the coordinating agency shall take the lead in developing the environmental excellence program agreement with the sponsor and other agencies administering legal requirements applicable to the covered facility and affected by the agreement. The environmental excellence program agreement does not become effective until the agreement is approved by the director of each agency administering legal requirements identified according to RCW 43.21K.060(1).

(4) No director may enter into an environmental excellence program agreement applicable to a remedial action conducted under the Washington model toxics control act, chap-

ter 70A.305 RCW, or the federal comprehensive environmental response, compensation and liability act (42 U.S.C. Sec. 9601 et seq.). No action taken under this chapter shall be deemed a waiver of any applicable, relevant, or appropriate requirements for any remedial action conducted under the Washington model toxics control act or the federal comprehensive environmental response, compensation and liability act.

(5) The directors of state, regional, or local agencies shall not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements adopted to comply with provisions of a federal regulatory program and to which the responsible federal agency objects after notice under the terms of RCW 43.21K.070(4).

(6) The directors of regional or local governments may not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements that are subject to review or appeal by a state agency, including but not limited to chapters 70A.15, 70A.205, and 90.58 RCW, and to which the responsible state agency objects after notice is given under the terms of RCW 43.21K.070(4). [2021 c 65 § 41; 1997 c 381 § 4.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

43.21K.040 Proposals for agreements. (1) A sponsor may propose an environmental excellence program agreement. A trade association or other authorized representative of a sponsor or sponsors may propose a programmatic environmental excellence program agreement for multiple facilities.

(2) A sponsor must submit, at a minimum, the following information and other information that may be requested by the director or directors required to sign the agreement:

(a) A statement that describes how the proposal is consistent with the purpose of this chapter and the project approval criteria in RCW 43.21K.020;

(b)(i) For a site-specific proposal, a comprehensive description of the proposed environmental excellence project that includes the nature of the facility and the operations that will be affected, how the facility or operations will achieve results more effectively or efficiently, and the nature of the results anticipated; or

(ii) For a programmatic proposal, a comprehensive description of the proposed environmental excellence project that identifies the facilities and the operations that are expected to participate, how participating facilities or operations will achieve environmental results more effectively or efficiently, the nature of the results anticipated, and the method to identify and document the commitments made by individual participants;

(c) An environmental checklist, containing sufficient information to reasonably inform the public of the nature of the proposed environmental excellence program agreement and describing probable significant adverse environmental impacts and environmental benefits expected from implementation of the proposal;

(d) A draft environmental excellence program agreement;

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(e) A description of the stakeholder process as provided in RCW 43.21K.050;

(f) A preliminary identification of the permit amendments or modifications that may be necessary to implement the proposed environmental excellence program agreement. [1997 c 381 § 5.]

43.21K.050 Stakeholder participation. (1) Stakeholder participation in and support for an environmental excellence program agreement is vital to the integrity of the environmental excellence program agreement and helps to inform the decision whether an environmental excellence program agreement can be approved.

(2) A proposal for an environmental excellence program agreement shall include the sponsor's plan to identify and contact stakeholders, to advise stakeholders of the facts and nature of the project, and to request stakeholder participation and review. Stakeholder participation and review shall occur during the development, consideration, and implementation stages of the proposed environmental excellence program agreement. The plan shall include notice to the employees of the facility to be covered by the proposed environmental excellence program agreement and public notice in the area of the covered facility.

(3) The coordinating agency shall extend an invitation to participate in the development of the proposal to a broad and representative sector of the public likely to be affected by the environmental excellence program agreement, including representatives of local community, labor, environmental, and neighborhood advocacy groups. The coordinating agency shall select participants to be included in the stakeholder process that are representative of the diverse sectors of the public that are interested in the agreement. The stakeholder process shall include the opportunity for discussion and comment at multiple stages of the process and access to the information relied upon by the directors in approving the agreement.

(4) The coordinating agency will identify any additional provisions for the stakeholder process that the director of the coordinating agency, in the director's sole discretion, considers appropriate to the success of the stakeholder process, and provide for notice to the United States environmental protection agency or other responsible federal agency of each proposed environmental excellence program agreement that may affect legal requirements of any program administered by that agency. [1997 c 381 § 6.]

43.21K.060 Terms and conditions of agreements. An environmental excellence program agreement must contain the following terms and conditions:

(1) An identification of all legal requirements that are superseded or replaced by the environmental excellence program agreement;

(2) A description of all legal requirements that are enforceable as provided in RCW 43.21K.110(1) that are different from those legal requirements applicable in the absence of the environmental excellence program agreement;

(3) A description of the voluntary goals that are or will be pursued by the sponsor;

(4) A statement describing how the environmental excellence program agreement will achieve the purposes of this chapter;

(5) A statement describing how the environmental excellence program agreement will be implemented, including a list of steps and an implementation schedule;

(6) A statement that the proposed environmental excellence program agreement will not increase overall worker safety risks or cause an unjust or disproportionate and inequitable distribution of environmental risks among diverse economic and cultural communities;

(7) A summary of the stakeholder process that was followed in the development of the environmental excellence program agreement;

(8) A statement describing how any participating facility shall measure and demonstrate its compliance with the environmental excellence program agreement including, without limitation, a description of the methods to be used to monitor performance, criteria that represent acceptable performance, and the method of reporting performance to the public and local communities. The facility's compliance with the agreement must be independently verifiable;

(9) A description of and plan for public participation in the implementation of the environmental excellence program agreement and for public access to information needed to assess the benefits of the environmental excellence program agreement and the sponsor's compliance with the environmental excellence program agreement;

(10) A schedule of periodic performance review of the environmental excellence program agreement by the directors that signed the agreement;

(11) Provisions for voluntary and involuntary termination of the agreement;

(12) The duration of the environmental excellence program agreement and provisions for renewal;

(13) Statements approving the environmental excellence program agreement made by the sponsor and by or on behalf of directors of each state, regional, or local agency administering legal requirements that are identified according to subsection (1) of this section;

(14) Additional terms as requested by the directors signing the environmental excellence program agreement and consistent with this chapter;

(15) Draft permits or permit modifications as needed to implement the environmental excellence program agreement;

(16) With respect to a programmatic environmental excellence program agreement, a statement of the method with which to identify and document the specific commitments to be made by individual participants. [1997 c 381 § 7.]

43.21K.070 Public comment—Notice—Responsiveness summary—Copy to federal agency. (1) The coordinating agency shall provide at least thirty days after notice has been published in a newspaper under subsection (2) of this section for public comment on a proposal to enter into or modify an environmental excellence program agreement. The coordinating agency may provide for an additional period of public comment if required by the complexity of the proposed environmental excellence program agreement and the degree of public interest. Before the start of the comment period, the coordinating agency shall prepare a proposed agreement, a public notice and a fact sheet. The fact sheet shall: (a) Briefly describe the principal facts and the signifi-

cant factual, legal, methodological and policy questions considered by the directors signing the agreement, and the directors' proposed decisions; and (b) briefly describe how the proposed action meets the requirements of RCW 43.21K.020.

(2) The coordinating agency shall publish notice of the proposed agreement in the Washington State Register and in a newspaper of general circulation in the vicinity of the facility or facilities covered by the proposed environmental excellence program agreement. The notice shall generally describe the agreement or modification; the facilities to be covered; summarize the changes in legal requirements that will result from the agreement; summarize the reasons for approving the agreement or modifications; identify an agency person to contact for additional information; state that the proposed agreement or modification and fact sheet are available on request; and state that comments may be submitted to the agency during the comment period. The coordinating agency shall order a public informational meeting or a public hearing to receive oral comments if the written comments during the comment period demonstrate considerable public interest in the proposed agreement.

(3) The coordinating agency shall prepare and make available a responsiveness summary indicating the agencies' actions taken in response to comments and the reasons for those actions.

(4) With respect to an environmental excellence program agreement that affects legal requirements adopted to comply with provisions of a federal regulatory program, the coordinating agency shall provide a copy of the environmental excellence program agreement, and a copy of the notice required by subsection (1) of this section, to the federal agency that is responsible for administering that program at least thirty days before entering into or modifying the environmental excellence program agreement, and shall afford the federal agency the opportunity to object to those terms of the environmental excellence program agreement or modification of an environmental excellence program agreement affecting the legal requirements. The coordinating agency shall provide similar notice to state agencies that have statutory review or appeal responsibilities regarding provisions of the environmental excellence program agreement. [1997 c 381 § 8.]

43.21K.080 Effect of agreements on legal requirements and permits—Permit revisions—Programmatic agreements. (1) Notwithstanding any other provision of law, any legal requirement identified under RCW 43.21K.060(1) shall be superseded or replaced in accordance with the terms of the environmental excellence program agreement. Legal requirements contained in a permit that are affected by an environmental excellence program agreement will continue to be enforceable until such time as the permit is revised in accordance with subsection (2) of this section. With respect to any other legal requirements, the legal requirements contained in the environmental excellence program agreement are effective as provided by the environmental excellence program agreement, and the facility or facilities covered by an environmental excellence program agreement shall comply with the terms of the environmental excellence program agreement in lieu of the legal require-

ments that are superseded and replaced by the approved environmental excellence program agreement.

(2) Any permits affected by an environmental excellence program agreement shall be revised to conform to the environmental excellence program agreement by the agency with jurisdiction. The permit revisions will be completed within one hundred twenty days of the effective date of the agreement in accordance with otherwise applicable procedural requirements, including, where applicable, public notice and the opportunity for comment, and the opportunity for review and objection by federal agencies.

(3) Other than as superseded or replaced as provided in an approved environmental excellence program agreement, any existing permit requirements remain in effect and are enforceable.

(4) A programmatic environmental excellence program agreement shall become applicable to an individual facility when all directors entering into the programmatic agreement approve the owner or operator's commitment to comply with the agreement. A programmatic agreement may not take effect, however, until notice and an opportunity to comment for the individual facility has been provided in accordance with the requirements of RCW 43.21K.070 (1) through (3). [1997 c 381 § 9.]

43.21K.090 Judicial review. (1) A decision by the directors of state, regional, or local agencies to approve a proposed environmental excellence program agreement, or to terminate or modify an approved environmental excellence program agreement, is subject to judicial review in superior court. For purposes of judicial review, the court may grant relief from the decision to approve or modify an environmental excellence program agreement only if it determines that the action: (a) Violates constitutional provisions; (b) exceeds the statutory authority of the agency; (c) was arbitrary and capricious; or (d) was taken without compliance with the procedures provided by this chapter. However, the decision of the director or directors shall be accorded substantial deference by the court. A decision not to enter into or modify an environmental excellence program agreement and a decision not to accept a commitment under RCW 43.21K.080(4) to comply with the terms of a programmatic environmental excellence [program] agreement are within the sole discretion of the directors of the state, regional, or local agencies and are not subject to review.

(2) An appeal from a decision to approve or modify a facility specific or a programmatic environmental excellence program agreement is not timely unless filed with the superior court and served on the parties to the environmental excellence program agreement within thirty days of the date on which the agreement or modification is signed by the director. For an environmental excellence program agreement or modification signed by more than one director, there is only one appeal, and the time for appeal shall run from the last date on which the agreement or modification is signed by a director.

(3) A decision to accept the commitment of a specific facility to comply with the terms of a programmatic environmental excellence program agreement, or to modify the application of an agreement to a specific facility, is subject to judicial review as described in subsection (1) of this section.

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An appeal is not timely unless filed with the superior court and served on the directors signing the agreement, the sponsor, and the owner or operator of the specific facility within thirty days of the date the director or directors that signed the programmatic agreement approve the owner or operator's commitment to comply with the agreement. For a programmatic environmental excellence program agreement or modification signed by more than one director, there shall be only one appeal and the time for appeal shall run from the last date on which a director approves the commitment.

(4) The issuance of permits and permit modifications is subject to review under otherwise applicable law.

(5) An appeal of a decision by a director under *section 11 of this act to terminate in whole or in part a facility specific or programmatic environmental excellence program agreement is not timely unless filed with the superior court and served on the director within thirty days of the date on which notice of the termination is issued under *section 11(2) of this act. [1997 c 381 § 10.]

*Reviser's note: Section 11 of this act was vetoed.

43.21K.100 Continued effect of agreements and permits—Modification of affected permit or approval. After a termination under *section 11 of this act is final and no longer subject to judicial review, the sponsor has sixty days in which to apply for any permit or approval affected by any terminated portion of the environmental excellence program agreement. An application filed during the sixty-day period shall be deemed a timely application for renewal of a permit under the terms of any applicable law. Except as provided in *section 11(4) of this act, the terms and conditions of the environmental excellence program agreement and of permits issued will continue in effect until a final permit or approval is issued. If the sponsor fails to submit a timely or complete application, any affected permit or approval may be modified at any time that is consistent with applicable law. [1997 c 381 § 12.]

*Reviser's note: Section 11 of this act was vetoed.

43.21K.110 Enforceable and voluntary commitments—Enforcement actions. (1) The legal requirements contained in the environmental excellence program agreement in accordance with RCW 43.21K.060(2) are enforceable commitments of the facility covered by the agreement. Any violation of these legal requirements is subject to penalties and remedies to the same extent as the legal requirements that they superseded or replaced.

(2) The voluntary goals stated in the environmental excellence program agreement in accordance with RCW 43.21K.060(3) are voluntary commitments of the facility covered by the agreement. If the facility fails to meet these goals, it shall not be subject to any form of enforcement action, including penalties, orders, or any form of injunctive relief. The failure to make substantial progress in meeting these goals may be a basis on which to terminate the environmental excellence program agreement under *section 11 of this act.

(3) Nothing in this chapter limits the authority of an agency, the attorney general, or a prosecuting attorney to initiate an enforcement action for violation of any applicable legal requirement. However, no civil, criminal, or administra-

tive action may be brought with respect to any legal requirement that is superseded or replaced under the terms of an environmental excellence program agreement.

(4) This chapter does not create any new authority for citizen suits, and does not alter or amend other statutory provisions authorizing citizen suits. [1997 c 381 § 13.]

*Reviser's note: Section 11 of this act was vetoed.

43.21K.120 Reduced fee schedule. An environmental excellence program agreement may contain a reduced fee schedule with respect to a program applicable to the covered facility or facilities. [1997 c 381 § 14.]

43.21K.130 Rule-making authority. Any state, regional, or local agency administering programs under an environmental law may adopt rules or ordinances to implement this chapter. However, it is not necessary that an agency adopt rules or ordinances in order to consider or enter into environmental excellence program agreements. [1997 c 381 § 16.]

43.21K.140 Advisory committee. The director of the department of ecology shall appoint an advisory committee to review the effectiveness of the environmental excellence program agreement program and to make a recommendation to the legislature concerning the continuation, termination, or modification of the program. The committee also may make recommendations it considers appropriate for revision of any regulatory program that is affected by an environmental excellence program agreement. The committee shall be composed of one representative each from two state agencies, two representatives of the regulated community, and two representatives of environmental organizations or other public interest groups. The committee must submit a report and its recommendation to the legislature not later than October 31, 2001. The department of ecology shall provide the advisory committee with such support as they may require. [1997 c 381 § 17.]

43.21K.150 Costs of processing proposals—Fees—Voluntary contributions. (1) Agencies authorized to enter into environmental excellence program agreements may assess and collect a fee to recover the costs of processing environmental excellence program agreement proposals. The amount of the fee may not exceed the direct and indirect costs of processing the environmental excellence program agreement proposal. Processing includes, but is not limited to: Working with the sponsor to develop the agreement, meeting with stakeholder groups, conducting public meetings and hearings, preparing a record of the decision to enter into or modify an agreement, and defending any appeal from a decision to enter into or modify an agreement. Fees also may include, to the extent specified by the agreement, the agencies' direct costs of monitoring compliance with those specific terms of an agreement not covered by permits issued to the participating facility.

(2) Agencies assessing fees may graduate the initial fees for processing an environmental excellence program agreement proposal to account for the size of the sponsor and to make the environmental excellence program agreement pro-

gram more available to small businesses. An agency may exercise its discretion to waive all or any part of the fees.

(3) Sponsors may voluntarily contribute funds to the administration of an agency's environmental excellence program agreement program. [1997 c 381 § 18.]

43.21K.160 Termination of authority to enter into agreements. The authority of a director to enter into a new environmental excellence program agreement program shall be terminated June 30, 2002. Environmental excellence program agreements entered into before June 30, 2002, shall remain in force and effect subject to the provisions of this chapter. [1997 c 381 § 19.]

Chapter 43.22 RCW

DEPARTMENT OF LABOR AND INDUSTRIES

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Labor disputes, arbitration: Chapter 49.08 RCW.

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Victims of crimes, compensation, duties of department: Chapter 7.68 RCW.

Wage collection: Chapter 49.48 RCW.

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43.22.005 Deputy directors. The director of labor and industries may appoint and deputize two assistant directors to be known as deputy directors. The director shall designate one deputy director who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1985 c 325 § 1; 1969 ex.s. c 32 § 2.]

43.22.010 Divisions of department—Personnel. The department of labor and industries shall be organized into divisions that promote efficient and effective performance of the duties the agency is charged by statute to administer.

The director may appoint such clerical and other assistants as may be necessary for the general administration of the department. [1994 c 164 § 2; 1974 ex.s. c 27 § 1. Prior: 1973 1st ex.s. c 153 § 8; 1973 1st ex.s. c 52 § 2; 1971 c 66 § 2; 1969 ex.s. c 32 § 1; 1965 c 8 § 43.22.010; prior: (i) 1927 c 306 § 1, part; 1917 c 36 § 2, part; RRS § 8637, part. (ii) 1921 c 7 § 74; RRS § 10832.]

Additional notes found at www.leg.wa.gov

43.22.020 Supervisor of industrial insurance—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial insurance, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such adjusters, medical and other examiners, auditors, inspectors, clerks, and other assistants as may be necessary to the administration of workers' compensation and medical aid in this state. [1994 c 164 § 3; 1965 c 8 § 43.22.020. Prior: 1921 c 7 § 75; RRS § 10833.]

Industrial insurance: Title 51 RCW.

43.22.030 Powers and duties. The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of workers' compensation and medical aid in this state;

(2) Have the custody of all property acquired by the state at execution sales upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs; sell and dispose of the same at private sales for the sale purchase price, and pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state. [1994 c 164 § 4; 1987 c 185 § 16; 1965 c 8 § 43.22.030. Prior: 1921 c 7 § 78, part; RRS § 10836, part.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Workers' compensation: Title 51 RCW.

43.22.035 Printed materials—Department's duties.

When an employer initially files a business license application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay industrial insurance taxes, the department must send to the employer any printed material the department recommends or requires the employer to post. Any time the printed material has substantive changes in the information, the department must send a copy to each employer. [2013 c 144 § 39; 2007 c 287 § 2.]

43.22.040 Supervisor of industrial safety and health—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial safety and health, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on the industrial safety and health work of the department. [1994 c 164 § 5; 1973 1st ex.s. c 52 § 3; 1965 c 8 § 43.22.040. Prior: 1921 c 7 § 76; RRS § 10834.]

Administrative expenses: RCW 51.16.105.

Additional notes found at www.leg.wa.gov

43.22.050 Powers and duties. The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of factories, mills, workshops, storehouses, warerooms, stores and buildings, and the machinery and apparatus therein contained, and steam vessels, and other vessels operated by machinery, and in relation to the administration and enforcement of all laws and safety standards providing for the protection of employees in mills, factories, workshops, and in employments subject to the provisions of Title 51 RCW, and in relation to the enforcement, inspection, certification, and promulgation of safe places and safety device standards in all industries: PROVIDED, HOWEVER, This section shall not apply to railroads;

(2) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of tracks, bridges, structures, machinery, equipment, and apparatus of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities, with respect to the safety of employees, and the administration and enforcement of all laws providing for the protection of employees of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities;

(3) Exercise all the powers and perform all the duties prescribed by law in relation to the enforcement, amendment, alteration, change, and making additions to, rules and regulations concerning the operation, placing, erection, maintenance, and use of electrical apparatus, and the construction thereof. [1994 c 164 § 6; 1973 1st ex.s. c 52 § 4; 1971 ex.s. c 239 § 9; 1965 c 8 § 43.22.050. Prior: 1955 c 173 § 1; 1921 c 7 § 80; RRS § 10838.]

Boilers and steam vessels: Chapter 70.79 RCW.

Electrical apparatus: Chapters 19.28, 19.29 RCW.

Elevators, escalators and dumbwaiters: Chapter 70.87 RCW.

Industrial safety and health: Chapter 49.17 RCW.

Additional notes found at www.leg.wa.gov

43.22.051 Rule making restricted. For rules adopted after July 27, 1997, the director of the department of labor and industries may not rely solely on a statute's statement of intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of those provisions, for statutory authority to adopt any rule. This section does not apply to rules adopted under chapter 39.12 RCW. [1997 c 409 § 103.]

Additional notes found at www.leg.wa.gov

43.22.052 Five-year formal review process of existing rules. The department of labor and industries must establish and perform, within existing funds, a formal review process of its existing rules every five years. The goal of the review is to decrease the numbers of, simplify the process, and decrease the time required for obtaining licenses, permits, and inspections, as applicable, in order to reduce the regulatory burden on businesses without compromising public health and safety. Benchmarks must be adopted to assess the effectiveness of streamlining efforts. The department must establish a process for effectively applying sunset provisions to rules when applicable. The department must report back to the applicable committees of the legislature with its review process and benchmarks by January 2014. [2013 2nd sp.s. c 30 § 3.]

Findings—Intent—2013 2nd sp.s. c 30: See note following RCW 43.21A.081.

43.22.053 Supervisor of building and construction safety inspection services—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of building and construction safety inspection services, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on building and construction safety inspection services subject to the provisions of chapter 41.06 RCW. [1994 c 164 § 7; 1969 ex.s. c 32 § 3.]

43.22.260 Supervisor of industrial relations—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial relations, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint an assistant to be known as the industrial statistician, and an assistant to be known as the supervisor of employment standards and may appoint and employ experts, clerks, and other assistants as may be necessary to carry on the industrial relations work of the department. [1994 c 164 § 10; 1975 1st ex.s. c 296 § 31; 1973 2nd ex.s. c 16 § 11; 1973 1st ex.s. c 154 § 82; 1965 c 8 § 43.22.260. Prior: 1921 c 7 § 77; RRS § 10835.]

Additional notes found at www.leg.wa.gov

43.22.270 Powers and duties. The director of labor and industries shall have the power, and it shall be the director's duty:

(1) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

(2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

(3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

(4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

(5) To exercise all the powers and perform all the duties, not specifically assigned to the department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

(6) To exercise such other powers and perform such other duties as may be provided by law. [1994 c 164 § 11; 1977 c 75 § 48; 1975 1st ex.s. c 296 § 32; 1973 2nd ex.s. c 16 § 12; 1973 1st ex.s. c 154 § 83; 1965 c 8 § 43.22.270. Prior: 1921 c 7 § 81; RRS 10839.]

Apprenticeships: Chapter 49.04 RCW.

Arbitration of disputes: Chapter 49.08 RCW.

Public employees' collective bargaining, arbitration of disputes: RCW 41.56.100.

Public employment labor relations: Chapter 41.58 RCW.

Wage collection for aggrieved employees: RCW 49.48.040.

Additional notes found at www.leg.wa.gov

43.22.282 Industrial welfare committee abolished—Transfer of powers, duties, and functions. The industrial welfare committee established by this chapter is abolished. All powers, duties, and functions of the committee are transferred to the director of labor and industries. [1982 c 163 § 16.]

Additional notes found at www.leg.wa.gov

43.22.290 Reports by employers. Every owner, operator, or manager of a factory, workshop, mill, mine, or other establishment where labor is employed, shall make to the department, upon blanks furnished by it, such reports and returns as the department may require, for the purpose of compiling such labor statistics as are authorized by this chapter, and the owner or business manager shall make such reports and returns within the time prescribed therefor by the director, and shall certify to the correctness thereof.

In the reports of the department no use shall be made of the names of individuals, firms, or corporations supplying the information called for by this section, such information being deemed confidential, and not for the purpose of disclosing

personal affairs, and any officer, agent, or employee of the department violating this provision shall be fined a sum not exceeding five hundred dollars, or be imprisoned for up to three hundred sixty-four days. [2011 c 96 § 28; 1965 c 8 § 43.22.290. Prior: 1901 c 74 § 3; RRS § 7588.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

43.22.300 Compelling attendance of witnesses and testimony—Penalty. (1) The director may issue subpoenas, administer oaths and take testimony in all matters relating to the duties herein required, such testimony to be taken in some suitable place in the vicinity to which testimony is applicable.

(2) Witnesses subpoenaed and testifying before any officer of the department shall be paid the same fees as witnesses before a superior court, such payment to be made from the funds of the department.

(3) Any person duly subpoenaed under the provisions of this section who willfully neglects or refuses to attend or testify at the time and place named in the subpoena, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days. [2003 c 53 § 227; 1965 c 8 § 43.22.300. Prior: 1901 c 74 § 4; RRS § 7589.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.22.310 Access to plants—Penalty for refusal. The director or any employee of the department of labor and industries may enter any factory, mill, office, workshop, or public or private works at any time for the purpose of gathering facts and statistics as provided by this chapter, and examine into the methods of protection from danger to employees, and the sanitary conditions in and around such buildings and places and make a record thereof, and any owner or occupant of such factory, mill, office or workshop, or public or private works, or his or her agent who refuses to allow an inspector or employee of the department to enter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed ninety days. [2009 c 549 § 5100; 1965 c 8 § 43.22.310. Prior: 1901 c 74 § 5; RRS § 7590.]

43.22.315 Use of social security numbers in correspondence with third parties. (1) For the purposes of preventing fraud and protecting personal privacy, the department shall examine its current practices in which it discloses the full social security numbers of persons in its correspondence with nongovernmental third parties.

(2) If the disclosure of full social security numbers in its correspondence with nongovernmental third parties is not required for compliance with any state or federal law, the department shall:

(a) Institute procedures to replace the use of full social security numbers with other forms of personal identifiers in its correspondence with nongovernmental third parties; and

(b) By July 1, 2023, cease disclosing the full social security numbers of persons in its correspondence with nongovernmental third parties.

(3) The definitions in this subsection apply throughout this section:

(a) "Correspondence" means written communications, emails, or other similar communications. "Correspondence" does not include financial transactions or communications sent via secured or encrypted methods.

(b) "Nongovernmental third party" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, or other legal commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality. [2021 c 80 § 1.]

43.22.331 Annual report on workers' compensation fraud. The department shall annually compile a comprehensive report on workers' compensation fraud in Washington. The report shall include the department's activities related to the prevention, detection, and prosecution of worker, employer, and provider fraud and the cost of such activities, as well as the actual and estimated cost savings of such activities. The report shall be submitted to the appropriate committees of the legislature prior to the start of the legislative session in January. [1995 c 160 § 7.]

43.22.335 Manufactured homes, mobile homes, recreational vehicles—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.22.340 through 43.22.434, 43.22.442, and 43.22.495.

(1) "Conversion vending units" means a motor vehicle or recreational vehicle that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be less than eight feet six inches wide in the set-up position and the inside working area must be less than forty feet in length.

(2) "Indigent" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level.

(3) "Manufactured home" means a single-family dwelling required to be built in accordance with regulations adopted under the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.).

(4) "Medical unit" means a self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles.

(5) "Mobile home" means a factory-built dwelling built before June 15, 1976, to standards other than the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.), and acceptable under applicable state codes in effect at the time of construction or introduction of the home into this state.

(6) "Park trailer" means a park trailer as defined in the American national standards institute A119.5 standard for park trailers.

(7) "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes. [2016 c 167 § 3; 2002 c 268 § 9; 2001 c 335 § 1; 1999 c 22 § 1; 1995 c 280 § 1.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

Additional notes found at www.leg.wa.gov

43.22.340 Manufactured homes, mobile homes, recreational vehicles—Safety rules—Compliance—Penalty.

(1) The director shall adopt specific rules for conversion vending units and medical units. The rules for conversion vending units and medical units shall be established to protect the occupants from fire; to address other life safety issues; and to ensure that the design and construction are capable of supporting any concentrated load of five hundred pounds or more. Also, the director shall adopt specific rules concerning safety standards as necessary to implement subsection (3) of this section by January 1, 2006.

(2) The director of labor and industries shall adopt rules governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches, recreational vehicles, and/or park trailers: PROVIDED, That the director shall not prescribe or enforce rules governing the body and frame design of recreational vehicles and park trailers until after the American national standards institute shall have published standards and specifications upon this subject. The rules shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American national standards institute standards A119.1 for mobile homes and commercial coaches, A119.2 for recreational vehicles, and A119.5 for park trailers.

(3) Except as provided in RCW 43.22.436, it shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970, body and frame design or construction, unless such equipment, design, or construction meets the requirements of the rules provided for in this section.

(4) Any person violating this section is guilty of a misdemeanor. Each day upon which a violation occurs shall constitute a separate violation. [2005 c 399 § 2; 2003 c 53 § 228; 2002 c 268 § 6; 1999 c 22 § 2; 1995 c 280 § 2; 1970 ex.s. c 27 § 1; 1969 ex.s. c 229 § 1; 1967 c 157 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

43.22.350 Mobile homes, recreational or commercial vehicles—Compliance insignia—Fee schedule—Out-of-state sales—Waiver of provisions during state of emergency. (1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an

insigne which indicates that the mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured within this state for sale outside this state which are sold to persons outside this state.

(3) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the collection of fees under this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 202; 1999 c 22 § 3; 1995 c 280 § 4; 1977 ex.s. c 21 § 6; 1970 ex.s. c 27 § 2; 1967 c 157 § 2.]

Additional notes found at www.leg.wa.gov

43.22.355 Mobile homes, recreational or commercial vehicles—Self-certification for recreational vehicles and park trailers—Procedures—Performance audit of quality control programs. The director or the director's authorized representative may allow qualifying recreational vehicle and/or park trailer manufacturers to be self-certified as to compliance with the American national standards institute A119.2 standard for recreational vehicles and the American national standards institute A119.5 standard for park trailers. Except as provided in subsection (4) of this section, a manufacturer approved for the department's self-certification is exempt from the requirements under RCW 43.22.434 and 43.22.360. The director shall adopt rules to implement the self-certification program. The director may establish fees at a sufficient level to cover the costs of administering this program.

(1) Before a manufacturer becomes self-certified, the department shall make an initial audit of the manufacturer making self-certification application. The audit must review and report on the following:

- (a) The manufacturer's quality control program;
- (b) The manufacturer's demonstrated ability to manufacture products in conformance with either or both of the American national standards institute standards A119.2 and A119.5; and
- (c) The availability on-site of comprehensive plans for each model being manufactured.

(2) At the sole discretion of the director, a manufacturer currently being audited by the department that is deemed to meet the criteria for an initial self-certification audit may become a self-certified manufacturer without an additional self-certification audit.

(3) If the department denies an application to allow a manufacturer to be self-certified, the manufacturer shall be notified in writing including the reasons for denial. A copy of the initial self-certification audit shall be provided to the manufacturer. A manufacturer who is denied self-certification may appeal the denial under chapter 34.05 RCW.

(4) If the department has reason to believe that the manufacturer is no longer meeting the criteria established in sub-

section (1) of this section, the department may make an audit of the manufacturer. For purposes of enforcement of this subsection, the department retains inspection and investigation authority under RCW 43.22.434. At the conclusion of this audit, the director or the director's authorized representative may continue the manufacturer's self-certification or require the manufacturer to meet all of the requirements of this chapter from which the manufacturer was once exempted.

(5) The manufacturer to whom the authorization is given shall pay all of the costs of the initial self-certification audit and any subsequent audit that the department has the authority to perform.

(6) The department shall conduct a performance audit of additional industry association quality control programs utilized by self-certified manufacturers at least once every two years. [1995 c 280 § 6.]

43.22.360 Mobile homes, recreational or commercial vehicles—Plans and specifications—Approval—Alterations—Rules. (1) Plans and specifications of each model or production prototype of a mobile home, commercial coach, conversion vending units as specified in subsection (2) of this section, medical units, recreational vehicle, and/or park trailer showing body and frame design, construction, plumbing, heating and electrical specifications and data shall be submitted to the department of labor and industries for approval and recommendations with respect to compliance with the rules and standards of each of such agencies. When plans have been submitted and approved as required, no changes or alterations shall be made to body and frame design, construction, plumbing, heating or electrical installations or specifications shown thereon in any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, or park trailer without prior written approval of the department of labor and industries.

(2)(a) Conversion vending units with any of the following components are subject to the requirements of subsection (1) of this section unless exempted by the department by rule after consultation with the advisory committee created in section 4, chapter 167, Laws of 2016:

- (i) Have concentrated loads exceeding five hundred pounds;
- (ii) Contain fuel gas piping systems and equipment;
- (iii) Contain solid fuel burning equipment;
- (iv) Contain fire suppression systems;
- (v) Contain commercial hoods;
- (vi) Contain electrical systems and equipment in excess of 30A/120V;
- (vii) Contain electrical systems with more than five circuits;
- (viii) Contain electrical systems incorporating photovoltaic energy, fuel cell energy, or other alternative energy systems; or
- (ix) Contain plumbing drainage systems conveying solid or bodily waste.

(b) Professional engineer or architect approval is only required for conversion vending units that have concentrated loads exceeding five hundred pounds.

(c) Plan review is not required for those systems and other items listed in (a) of this subsection, or as modified by rule, that are already inspected and approved by another jurisdic-

diction either to a common recognized standard or to standards substantially equivalent to Washington state. An insignia or certified inspection record from the inspecting jurisdiction will suffice as evidence of prior plan review approval.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state requirements or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements. [2016 c 167 § 2; 1999 c 22 § 4. Prior: 1995 c 289 § 1; 1995 c 280 § 7; 1970 ex.s. c 27 § 3; 1967 c 157 § 3.]

43.22.370 Mobile homes, recreational or commercial vehicles—Leased, sold, or manufactured in state prior to July 1, 1968—Compliance not required—Exception. Any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer leased or sold in Washington and manufactured prior to July 1, 1968, which has not been inspected prior to its sale and which does not meet the requirements prescribed will not be required to comply with those requirements except for alterations or installations referred to in RCW 43.22.360. [1999 c 22 § 5; 1995 c 280 § 8; 1970 ex.s. c 27 § 4; 1969 ex.s. c 229 § 2; 1967 c 157 § 4.]

43.22.380 Mobile homes, recreational or commercial vehicles—Manufactured for use outside state—Compliance not required—Exception. Used mobile homes, commercial coaches, recreational vehicles, and/or park trailers manufactured for use outside this state which do not meet the requirements prescribed and have been used for six months or more will not be required to comply with those requirements except for alterations or installations referred to in RCW 43.22.360. [2016 c 167 § 1; 1999 c 22 § 6; 1995 c 280 § 9; 1970 ex.s. c 27 § 5; 1967 c 157 § 5.]

43.22.390 Mobile homes, recreational or commercial vehicles—Insigne of approval, when required. Mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers subject to the provisions of RCW 43.22.340 through 43.22.410, and mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers upon which alterations of body and frame design, construction or installations of plumbing, heating or electrical equipment referred to in RCW 43.22.360 are made after July 1, 1968, shall have affixed thereto such insignie of approval. [1999 c 22 § 7; 1995 c 280 § 10; 1970 ex.s. c 27 § 6; 1967 c 157 § 6.]

43.22.400 Mobile homes, recreational or commercial vehicles—Meeting standards of other states at least equal to this state. If the director of the department of labor and industries determines that the standards for body and frame design, construction and the plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, recreational vehicles, and/or park trailers by the statutes or rules and regulations of other states are at least equal to the standards prescribed by this state, he or she may so provide by regulation. Any mobile home, commercial coach, recreational vehicle, and/or park trailer which a state listed in such

regulations has approved as meeting its standards for body and frame design, construction and plumbing, heating and electrical equipment shall be deemed to meet the standards of the director of the department of labor and industries, if he or she determines that the standards of such state are actually being enforced. [2009 c 549 § 5101; 1995 c 280 § 11; 1970 ex.s. c 27 § 7; 1967 c 157 § 7.]

43.22.410 Mobile homes, recreational or commercial vehicles—Meeting requirements of chapter deemed compliance with county or city ordinances. Any mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer that meets the requirements prescribed under RCW 43.22.340 shall not be required to comply with any ordinances of a city or county prescribing requirements for body and frame design, construction or plumbing, heating and electrical equipment installed in mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers. [1999 c 22 § 8; 1995 c 280 § 12; 1970 ex.s. c 27 § 8; 1967 c 157 § 8.]

43.22.420 Factory assembled structures advisory board. There is hereby created a factory assembled structures advisory board consisting of nine members to be appointed by the director of labor and industries. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules pertaining to the manufacture of factory assembled structures, manufactured homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and park trailers. The advisory board shall periodically review the rules adopted under RCW 43.22.450 through 43.22.490 and shall recommend changes of such rules to the department if it deems changes advisable.

The members of the advisory board shall be representative of consumers, the regulated industries, and allied professionals. The term of each member shall be four years. However, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.

The chief inspector or any person acting as chief inspector for the factory assembled structures, manufactured or mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and park trailer section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee. [2001 c 335 § 2; 1999 c 22 § 9; 1995 c 280 § 13; 1987 c 330 § 601; 1975-'76 2nd ex.s. c 34 § 103; 1971 ex.s. c 82 § 1; 1970 ex.s. c 27 § 9; 1969 ex.s. c 229 § 3.]

Additional notes found at www.leg.wa.gov

43.22.430 RCW 43.22.340 and 43.22.350 through 43.22.420 not to apply to common carrier equipment. RCW 43.22.340 and 43.22.350 through 43.22.420 shall not apply to common carrier equipment. [1970 ex.s. c 27 § 10.]

43.22.431 Manufactured home safety and construction standards—Enforcement by director of labor and industries. The director of the department of labor and industries may enforce manufactured home safety and construction standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government and private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Any fees or contract moneys collected under these agreements shall be deposited into the manufactured home installation training account created in RCW 43.22A.100. [2007 c 432 § 6; 2001 c 335 § 3; 1977 ex.s. c 21 § 1.]

Additional notes found at www.leg.wa.gov

43.22.432 Manufactured home construction and safety standards and regulations—Rules. (1) The department may adopt all standards and regulations adopted by the secretary under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from publication in the federal register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment. In case of objection, the department shall proceed under the rule making procedure of chapter 34.05 RCW.

(2) The department shall adopt rules with respect to manufactured homes that require the prior written approval of the department before changes or alterations may be made to a manufactured home that differ from the construction standards provided for in this section.

(3) For purposes of implementing this section, by January 1, 2006, the department shall adopt requirements for manufactured homes built before June 15, 1976.

(4) Except as provided in RCW 43.22.436, it is unlawful for any person to lease, sell, or offer for sale, within this state, a manufactured home unless the home meets the requirements of the rules provided for in this section. [2005 c 399 § 3; 2002 c 268 § 7; 2001 c 335 § 4; 1977 ex.s. c 21 § 2.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

Additional notes found at www.leg.wa.gov

43.22.433 Violations—Penalties. Any person who violates any of the provisions of RCW 43.22.431 through 43.22.434 and 43.22.350 or any rules or regulations adopted pursuant to RCW 43.22.431 through 43.22.434 and

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43.22.350 is guilty of a gross misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment. [1977 ex.s. c 21 § 3.]

Additional notes found at www.leg.wa.gov

43.22.434 Inspections and investigations necessary to adopt or enforce rules—Director's duties—Fees—Waiver of provisions during state of emergency. (1) The director or the director's authorized representative may conduct such inspections, investigations, and audits as may be necessary to adopt or enforce manufactured and mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured and mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale;

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974. Each inspection shall be commenced and completed with reasonable promptness; and

(c) As requested by an owner of a conversion vending unit or medical unit, inspect an alteration.

(3) For purposes of determining compliance with this chapter's permitting requirements for alterations of mobile and manufactured homes, the department may audit the records of a contractor as defined in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor as defined in RCW 19.28.006 when the department has reason to believe that a violation of the permitting requirements has occurred. The department shall adopt rules implementing the auditing procedures. Information obtained from a contractor through an audit authorized by this subsection is confidential and not open to public inspection under chapter 42.56 RCW.

(4) The department shall set a schedule of fees by rule which will cover the costs incurred by the department in the administration of RCW 43.22.335 through 43.22.490, and is hereby authorized to do so pursuant to RCW 43.135.055. The department shall use fees set under this subsection only for the administration of RCW 43.22.335 through 43.22.490. The department may waive mobile/manufactured home alteration permit fees for indigent permit applicants.

(5) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the collection of fees under this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 285 § 4; 2008 c 181 § 203; 2005 c 274 § 296;

2004 c 137 § 1; 2003 c 67 § 1. Prior: 2002 c 268 § 3; 2002 c 268 § 2; 2001 c 335 § 5; 1999 c 22 § 10; 1995 c 280 § 5; 1977 ex.s. c 21 § 5.]

Reviser's note: This section was amended by 2008 c 181 § 203 and by 2008 c 285 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2008 c 285: "To protect taxpayers, many state programs require the costs of licensing, registration, certification, and related government services to be borne by the profession or industry that uses the services, rather than by the taxpaying public as a whole. State standards that govern the professional duties of these industries are intended to protect the general public by safeguarding health, safety, employees, and consumers. The legislative approval of the fees and fee increases in this act is intended to ensure that the general public is not assessed these costs while also providing adequate funding to statutory programs that safeguard and improve Washington's health, safety, employees, and consumers." [2008 c 285 § 1.]

Purpose—Finding—2002 c 268: "The purpose of this act is to implement the recommendations of the joint legislative task force created by chapter 335, Laws of 2001. The legislature recognizes the need to improve communications among mobile/manufactured homeowners, regulatory agencies, and other interested parties, to streamline the complex regulatory environment and inflexible enforcement system, and to promote problem solving at an early stage. To assist in achieving these goals, the legislature:

(1) Encourages the relevant agencies to conduct a pilot project that tests an interagency coordinated system for processing permits for alterations or repairs of mobile and manufactured homes; and

(2) Recognizes the task force's work in reviewing agency rules related to alteration permit requirements and supports the task force's recommendations to the agency regarding those rules. The legislature finds that assisting consumers to understand when an alteration of a mobile or manufactured home is subject to a permit, and when it is not, will improve compliance with the agency rules and further the code's safety goals." [2002 c 268 § 1.]

Additional notes found at www.leg.wa.gov

43.22.435 Altering a mobile or manufactured home—Permit—Penalties—Appeals—Notice of correction. (1)(a) In addition to or in lieu of any other penalty applicable under this chapter, and except as provided in (b) of this subsection, the department may assess a civil penalty of not more than one thousand dollars against a contractor, firm, partnership, or corporation, that fails to obtain a permit before altering a mobile or manufactured home as required under this chapter or rules adopted under this chapter. Each day on which a violation occurs constitutes a separate violation. However, the cumulative penalty for the same occurrence may not exceed five thousand dollars.

(b) The department must adopt a schedule of civil penalties giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation and the history of previous violations. Penalties for subsequent violations, not constituting the same occurrence, committed within two years of a prior violation by the same party or entity, or by an individual who was a principal or officer of the same entity, must be double the amount of the penalty for the prior violation or one thousand dollars, whichever is greater.

(2)(a) The department may issue a notice of correction before issuing a civil penalty assessment. The notice must include:

- (i) A description of the violation;
- (ii) A statement of what is required to correct the violation;
- (iii) The date by which the department requires correction to be achieved; and

(iv) Notice of the individual or department office that must be contacted to obtain a permit or other compliance information.

(b) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(c) If the department issues a notice of correction, it shall not issue a civil penalty for the violation identified in the notice of correction unless the responsible person fails to comply with the notice.

(3)(a) The department must issue written notices of civil penalties imposed under this section, with the reasons for the penalty, using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address of the party named in the notice.

(b) If a party desires to contest a notice of civil penalty issued under this section, the party must file a notice of appeal with the department within twenty days of the department's mailing of the notice of civil penalty. An administrative law judge of the office of administrative hearings will hear and determine the appeal. Appeal proceedings must be conducted pursuant to chapter 34.05 RCW. An appeal of the administrative law judge's determination or order shall be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure. [2011 c 301 § 10; 2002 c 268 § 4.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

43.22.436 Mobile and manufactured home installations—Exemptions and variances from permitting requirements and alteration rules—Conditional sales of altered mobile and manufactured homes. (1) With respect to mobile and manufactured homes that are installed in accordance with the standards adopted under RCW 43.22.440:

(a) The department shall adopt rules that:

(i) Specify exemptions from a requirement for a permit to alter a mobile or manufactured home;

(ii) Authorize the granting of variances from the rules adopted under this section for alterations that use materials, designs, or methods of construction different from those required under the rules adopted under this chapter; and

(iii) Require the seller of a mobile or manufactured home to deliver to the buyer prior to the sale: (A) A completed property transfer disclosure statement in accordance with chapter 64.06 RCW, unless the seller is exempt or the buyer waives his or her rights under chapter 64.06 RCW; and (B) the variance, if any, granted under the rules adopted under this section.

(b) The department may adopt a rule that allows parties to enter into a conditional sale of an altered mobile or manufactured home. However, a conditional sales agreement may be executed only if, prior to execution, the parties have complied with the department's requirements related to permit approval and a variance granted under the rules, if any, and with property transfer disclosure statement requirements.

(2) This chapter does not prohibit the sale of an altered mobile or manufactured home installed in accordance with the standards adopted under RCW 43.22.440. If, after an inspection requested by any party to a sale, including a party financing the sale, the department determines that an alteration may constitute a hazard to life, safety, or health, the

department shall so notify the parties in writing within thirty days of completing the inspection and may notify the local official responsible for enforcing the uniform fire code adopted under chapter 19.27 RCW or local health officer, as applicable, within the relevant jurisdiction. [2002 c 268 § 5.]

Purpose—Finding—Effective dates—2002 c 268: See notes following RCW 43.22.434.

43.22.440 Manufactured and mobile home installation service and warranty service standards—Enforcement. (1) The legislature finds that inspections of manufactured and mobile home installation are not done on a consistent basis. Manufactured and mobile homes provide housing for many people in the state, and improperly installed manufactured or mobile homes are a serious health and safety risk. Where possible and practical, manufactured and mobile homes should be treated the same as any housing inhabited or to be inhabited by persons in this state, including housing built according to the state building code.

(2) In consultation with the factory assembled structures advisory board for manufactured homes, the director of labor and industries shall by rule establish uniform standards for the performance and workmanship of installation service and warranty service by persons or entities engaged in performing the services within this state for all manufactured and mobile homes, as defined in RCW 46.04.302. The standards shall conform, where applicable, with statutes, rules, and recommendations established under the national manufactured home construction and safety standards act of 1974 (42 U.S.C. Sec. 5401 et seq.). These rules regarding the installation of manufactured and mobile homes shall be enforced and fees charged by the counties and cities in the same manner the state building code is enforced under RCW 19.27.050.

(3) In addition to and in conjunction with the remedies provided in this chapter, failure to remedy any breach of the standards and rules so established, upon adequate notice and within a reasonable time, is a violation of the consumer protection act, chapter 19.86 RCW and subject to the remedies provided in that chapter. [2001 c 335 § 6; 1988 c 239 § 5; 1980 c 153 § 1.]

Additional notes found at www.leg.wa.gov

43.22.442 Warranty service—Timely compensation for work performed. A manufacturer of manufactured homes who designates a representative within this state to provide consumers with warranty service for manufactured homes on behalf of the manufacturer shall make reasonable and timely compensation to the representative for performance of the warranty service. [2001 c 335 § 7; 1980 c 153 § 2.]

Additional notes found at www.leg.wa.gov

43.22.445 Mobile homes—Warranties and inspections—Advertising of dimensions. See RCW 46.70.135.

43.22.450 Factory built housing and commercial structures, regulating installation of—Definitions. When used in RCW 43.22.450 through 43.22.490:

(1) "Department" means the Washington state department of labor and industries;

(2) "Approved" means approved by the department;

(3) "Factory built housing" means any structure, including a factory built tiny house with or without a chassis (wheels), designed primarily for human occupancy other than a manufactured or mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site;

(4) "Install" means the assembly of factory built housing or factory built commercial structures at a building site;

(5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing or a factory built commercial structure is installed or is to be installed;

(6) "Local enforcement agency" means any agency of the governing body of any city, county, or state which enforces laws or ordinances governing the construction of buildings;

(7) "Commercial structure" means a structure designed or used for human habitation, or human occupancy for industrial, educational, assembly, professional or commercial purposes;

(8) "Qualified inspection agency" means a nongovernmental entity approved to perform inspections under contract for the department. [2019 c 352 § 4; 2019 c 165 § 2; 2001 c 335 § 8; 1973 1st ex.s. c 22 § 1; 1970 ex.s. c 44 § 1.]

Reviser's note: This section was amended by 2019 c 165 § 2 and by 2019 c 352 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—2019 c 352: See note following RCW 58.17.040.

Additional notes found at www.leg.wa.gov

43.22.455 Factory built housing and commercial structures, regulating installation of—Housing must be approved, have department insignia—Significance of insignia—Modification of housing during installation must be approved. No factory built housing or factory built commercial structure shall be installed on a building site in this state after the effective date of the regulations adopted pursuant to RCW 43.22.480 unless it is approved and bears the insignia of approval of the department.

(1) Any factory built housing or factory built commercial structure bearing an insignia of approval of the department shall be deemed to comply with any laws, ordinances or regulations enacted by any city or county or any local enforcement agency which govern the manufacture and construction of factory built housing or factory built commercial structures or on-site housing.

(2) No factory built housing or factory built commercial structure which has been approved by the department shall be in any way modified prior to, or during installation by a manufacturer or installer unless approval of such modification is first made by the department. [1973 1st ex.s. c 22 § 2; 1970 ex.s. c 44 § 2.]

43.22.460 Factory built housing and commercial structures, regulating installation of—Certain requirements reserved to local jurisdictions. Local land use requirements, building setbacks, side and rear yard requirements, site development and property line requirements, and review and regulation of zoning requirements are specifically reserved to local jurisdictions notwithstanding anything con-

tained in RCW 43.22.450 through 43.22.490. [1970 ex.s. c 44 § 3.]

43.22.465 Factory built housing and commercial structures, regulating installation of—Injunctive process, procedure. The department may obtain from a superior court having jurisdiction, a temporary injunction enjoining the installation of factory built housing or factory built commercial structures on any building site upon affidavit of the department that such factory built housing or factory built commercial structures do not conform to the requirements of RCW 43.22.450 through 43.22.490 or to the rules adopted pursuant to RCW 43.22.450 through 43.22.490. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court. [1973 1st ex.s. c 22 § 3; 1970 ex.s. c 44 § 4.]

43.22.470 Factory built housing and commercial structures, regulating installation of—Delegation of inspection duty—Qualified inspection agencies. The department shall have the authority to delegate all or part of its duties of inspection to a local enforcement agency or a qualified inspection agency.

Qualified inspection agencies shall be objective, competent, and independent from the companies responsible for the work being inspected. The qualified inspection agency will disclose to the department any conflict of interest so that objectivity may be confirmed. Qualified inspection agencies shall have adequate equipment to perform the required inspections and shall employ experienced personnel with appropriate certifications and knowledge for the inspections being performed. Certification by the international code council will be recognized as meeting this last requirement. [2019 c 165 § 1; 1970 ex.s. c 44 § 5.]

43.22.480 Factory built housing and commercial structures, installation—Rules—Enforcement—Standards—Fees—Waiver of provisions during state of emergency. (1) The department shall adopt and enforce rules that protect the health, safety, and property of the people of this state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association or, when applicable, the temporary worker building code adopted under RCW 70.114A.081.

(2) The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490.

(3) The director may adopt rules that provide for approval of a plan that is certified as meeting state require-

ments or the equivalent by a professional who is licensed or certified in a state whose licensure or certification requirements meet or exceed Washington requirements.

(4) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the collection of fees under this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population. [2008 c 181 § 204; 1998 c 37 § 4; 1995 c 289 § 2; 1989 c 134 § 1; 1979 ex.s. c 76 § 2; 1973 1st ex.s. c 22 § 5; 1970 ex.s. c 44 § 7.]

Additional notes found at www.leg.wa.gov

43.22.485 Factory built housing and commercial structures, regulating installation of—Recognizing out-of-state standards, enforcement, as department approved. If the director of the department determines that the standards for factory built housing or factory built commercial structures prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under RCW 43.22.450 through 43.22.490, and that such standards are actually enforced by such other state, he or she may provide by regulation that factory built housing or factory built commercial structures approved by such other state shall be deemed to have been approved by the department. [2009 c 549 § 5102; 1973 1st ex.s. c 22 § 6; 1970 ex.s. c 44 § 8.]

43.22.490 Factory built housing and commercial structures, regulating installation of—Violation as misdemeanor—Penalty. Any person who violates any of the provisions of RCW 43.22.450 through 43.22.490 or any rules or regulations adopted pursuant to RCW 43.22.450 through 43.22.490 is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. [1970 ex.s. c 44 § 9.]

43.22.495 Manufactured housing—Duties. Beginning on July 1, 2007, the department of labor and industries shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of labor and industries may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The directors of the *department of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that chapter 432, Laws of 2007 is implemented on July 1, 2007. [2007 c 432 § 7; 1995 c 399 § 69; 1990 c 176 § 1.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.22.498 Deposit of moneys from RCW 43.22.335 through 43.22.430 and 43.22.432 through 43.22.495. All moneys, except fines and penalties, received or collected under the terms of RCW 43.22.335 through 43.22.430 and 43.22.432 through 43.22.495 must be deposited into the construction registration inspection account. All fines and penalties received or collected under the terms of RCW 43.22.335 through 43.22.430 and 43.22.432 through 43.22.495 shall be deposited in the general fund. [2017 3rd sp.s. c 11 § 2.]

Effective date—2017 3rd sp.s. c 11: See note following RCW 51.44.190.

43.22.500 Printing and distribution of publications—Fees. The department of labor and industries, to defray the costs of printing, reprinting, or distributing printed matter issued by the department of labor and industries including, but not limited to, the matters listed in RCW 43.22.505, may charge a fee for such publications in an amount which will reimburse the department for the costs of printing, reprinting, and distributing such publications: PROVIDED, That every person subject to regulation by the department may upon request receive without charge one copy per year of any publication printed pursuant to RCW 43.22.505 whenever such person is affected by any statute, rule or regulation printed therein. All fees collected shall be deposited in the state treasury to the credit of the appropriate fund or account. [1979 ex.s. c 67 § 2; 1975 1st ex.s. c 123 § 1.]

Additional notes found at www.leg.wa.gov

43.22.505 Printing and distribution of publications—Authorized subject matters. The department of labor and industries is specifically authorized to print, reprint, and distribute subject matter including but not limited to the following:

- (1) The provisions of Title 51 RCW;
- (2) The provisions of Title 49 RCW;
- (3) The provisions of chapter 7.68 RCW;
- (4) The provisions of chapter 88.16 RCW;
- (5) The provisions of chapter 19.28 RCW;
- (6) The provisions of chapter 43.22 RCW;
- (7) The provisions of chapter 41.56 RCW;
- (8) The provisions of chapter 49.66 RCW;
- (9) The provisions of chapter 70.79 RCW;
- (10) The provisions of chapter 70.74 RCW;
- (11) The provisions of chapter 70.87 RCW;
- (12) The provisions of all other statutes administered by the department or such statutes as have a relationship to the functions and obligations of the department; and
- (13) The rules and regulations of the department of labor and industries, the state apprenticeship council, the state board of pilotage commissioners and the board of boiler rules promulgated pursuant to the statutory provisions cited above. [1975 1st ex.s. c 123 § 2.]

43.22.550 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications. The director may contract with the federal internal revenue service, or

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other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW. [1997 c 51 § 4.]

Intent—1997 c 51: See note following RCW 19.02.300.

Chapter 43.22A RCW MOBILE AND MANUFACTURED HOME INSTALLATION

Sections

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- 43.22A.010 Definitions.
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- 43.22A.120 Certified installer required on-site—Infraction—Exceptions.
- 43.22A.130 Certified installer required on-site—Infraction—Notice.
- 43.22A.140 Violations—Investigations—Inspections.
- 43.22A.150 Violations—Separate infraction for each day, each worksite.
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- 43.22A.170 Notice of infraction.
- 43.22A.180 Notice as determination.
- 43.22A.190 Penalty.
- 43.22A.200 Appeals.
- 43.22A.210 Manufactured homes—Warranty disputes.
- 43.22A.220 Rule adoption—Enforcement.
- 43.22A.901 Effective date—1994 c 284.

43.22A.005 Purpose. The purpose of this chapter is to ensure that all mobile and manufactured homes are installed by a certified manufactured home installer in accordance with the state installation code, chapter 296-150B WAC, in order to provide greater protections to consumers and make the warranty requirement of *RCW 46.70.134 easier to achieve. [1994 c 284 § 14. Formerly RCW 43.63B.005.]

*Reviser's note: The reference in 1994 c 284 § 14 to "section 2 of this act" was erroneous. Section 10 of that act, codified as RCW 46.70.134, was apparently intended.

Dispute mediation: RCW 43.22A.210.

43.22A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(2) "Certified manufactured home installer" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.

(3) "Department" means the department of labor and industries.

(4) "Director" means the director of labor and industries.

(5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and

urban development manufactured home construction and safety standards act, which is a national, preemptive building code.

(6) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

- (a) Construction of the foundation system;
- (b) Installation of the support piers and earthquake resistant bracing system;
- (c) Required connection to foundation system and support piers;
- (d) Skirting;
- (e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and
- (f) Extension of the pressure relief valve for the water heater.

(7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department, or the education course administered by an approved educational provider, as a prerequisite to taking the examination for certification.

(10) "Approved educational provider" means an organization approved by the department to provide education and training of manufactured home installers and local inspectors. [2007 c 432 § 3; 1998 c 124 § 6; 1994 c 284 § 15. Formerly RCW 43.63B.010.]

43.22A.020 Manufactured housing—Department duties. Beginning on July 1, 2007, the department shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The *department of community, trade, and economic development shall transfer all records, files, books, and documents necessary for the department to assume these new functions.

The directors of *community, trade, and economic development and of labor and industries shall immediately take such steps as are necessary to ensure that chapter 432, Laws of 2007 is implemented on July 1, 2007. [2007 c 432 §

1; 1993 c 280 § 76; 1990 c 176 § 2. Formerly RCW 43.63A.460.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.22A.030 Manufactured housing—Federal standards—Enforcement. (Contingent expiration date.) The director shall enforce manufactured housing safety and construction standards adopted by the secretary of housing and urban development under the national manufactured housing construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government, state agencies, or private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the national manufactured housing construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) regarding the state administrative agency program. [2007 c 432 § 2; 1995 c 399 § 74; 1993 c 124 § 1. Formerly RCW 43.63A.465.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

Additional notes found at www.leg.wa.gov

43.22A.040 Installer certification—Application—Training. A person desiring to be issued a certificate of manufactured home installation as provided in this chapter shall make application to the department, in such a form as required by the department.

Upon receipt of the application and evidence required in this chapter, the director shall review the information and make a determination as to whether the applicant is eligible to take the training course and examination for the certificate of manufactured home installation. An applicant must furnish written evidence of six months of experience under the direct supervision of a certified manufactured home installer, or other equivalent experience, in order to be eligible to take the training course and examination. The director shall establish reasonable rules for the training course and examinations to be given to applicants for certificates of manufactured home installation. Upon determining that the applicant is eligible to take the training course and examination, the director shall notify the applicant, indicating the time and place for taking the training course and examination.

The requirement that an applicant must be under the direct supervision of a certified manufactured home installer for six months only applies to applications made on or after July 1, 1996. For applications made before July 1, 1996, the department shall require evidence of experience to satisfy this requirement.

The director may allow other persons to take the training course and examination on manufactured home installation, without certification. [1994 c 284 § 17. Formerly RCW 43.63B.020.]

43.22A.050 Installer certification—Training course—Examination. The department shall prepare a written training course and examination to be administered to applicants for manufactured home installer certification. The

examination shall be constructed to determine whether the applicant:

(1) Possesses general knowledge of the technical information and practical procedures that are necessary for manufactured home installation;

(2) Is familiar with the federal and state codes and administrative rules pertaining to manufactured homes; and

(3) Is familiar with the local government regulations as related to manufactured home installations.

The department shall certify the results of the examination and shall notify the applicant in writing whether the applicant has passed or failed the examination. An applicant who failed the examination may retake the training course and examination. The director may not limit the number of times that a person may take the training course and examination. [1994 c 284 § 18. Formerly RCW 43.63B.030.]

43.22A.060 Installer certification—Alternative to department training course—Rules. The department shall adopt rules to establish and administer a process of approving educational providers as an alternative to the department training course for installers and local inspectors. [1998 c 124 § 7. Formerly RCW 43.63B.035.]

43.22A.070 Installer certification—Issuance of certificate—Renewal—Suspension of license or certificate for noncompliance with support order. (1) The department shall issue a certificate of manufactured home installation to an applicant who has taken the training course, passed the examination, paid the fees, and in all other respects meets the qualifications. The certificate shall bear the date of issuance, a certification identification number, and is renewable every three years upon application and completion of a continuing education program as determined by the department. A renewal fee shall be assessed for each certificate. If a person fails to renew a certificate by the renewal date, the person must retake the examination and pay the examination fee.

(2) The certificate of manufactured home installation provided for in this chapter grants the holder the right to engage in manufactured home installation throughout the state, without any other installer certification.

(3) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 874; 1994 c 284 § 19. Formerly RCW 43.63B.040.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

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43.22A.080 Installer certification—Revocation. (1) The department may revoke a certificate of manufactured home installation upon the following grounds:

(a) The certificate was obtained through error or fraud;

(b) The holder of the certificate is judged to be incompetent as a result of multiple infractions of the state installation code, *WAC 296-150B-200 through 296-150B-255; or

(c) The holder has violated a provision of this chapter or a rule adopted to implement this chapter.

(2) Before a certificate of manufactured home installation is revoked, the holder must be given written notice of the department's intention to revoke the certificate, sent using a method by which the mailing can be tracked or the delivery can be confirmed to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.05 RCW. [2011 c 301 § 11; 1994 c 284 § 21. Formerly RCW 43.63B.050.]

***Reviser's note:** Chapter 296-150B WAC was repealed in 1996.

43.22A.090 Certification program fees. (1) The department shall charge reasonable fees to cover the costs to administer the certification program which shall include but not be limited to the issuance, renewal, and reinstatement of all certificates, training courses, and examinations required under this chapter. All fees collected under this chapter shall be deposited in the manufactured home installation training account created in RCW 43.22A.100 and used only for the purposes specified in this chapter.

The fees shall be limited to covering the direct cost of issuing the certificates, administering the examinations, and administering and enforcing this chapter. The costs shall include only essential travel, per diem, and administrative support costs.

(2) For the purposes of implementing chapter 432, Laws of 2007, until July 1, 2008, the department may increase fees for the certification program in excess of the fiscal growth factor under chapter 43.135 RCW. [2007 c 432 § 11; 1994 c 284 § 22. Formerly RCW 43.63B.070.]

43.22A.100 Manufactured home installation training account. The manufactured home installation training account is created in the state treasury. All receipts collected under this chapter and RCW 46.17.150 and any legislative appropriations for manufactured home installation training shall be deposited into the account. Moneys in the account may only be spent after appropriation. Expenditures from the account may only be used for the purposes of this chapter. Unexpended and unencumbered moneys that remain in the account at the end of the fiscal year do not revert to the state general fund but remain in the account, separately accounted for, as a contingency reserve. [2011 c 158 § 3; 1994 c 284 § 23. Formerly RCW 43.63B.080.]

Additional notes found at www.leg.wa.gov

43.22A.110 Local government installation application and permit requirements. Any local government mobile or manufactured home installation application and

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permit shall state either the name and registration number of the contractor or licensed manufactured home dealer or the certification identification number of the certified manufactured home installer supervising such installation. A local government may not issue final approval for the installation of a manufactured home unless the certified installer or the installer's agent has posted at the set-up site the manufactured home installer's certification number and has identified the work being performed on the manufactured home installation on a form prescribed by the department. [1998 c 124 § 8; 1994 c 284 § 20. Formerly RCW 43.63B.060.]

43.22A.120 Certified installer required on-site—Infraction—Exceptions. After July 1, 1995, a mobile or manufactured home may not be installed without a certified manufactured home installer providing on-site supervision whenever installation work is being performed. The certified manufactured home installer is responsible for the reading, understanding, and following [of] the manufacturer's installation instructions and performance of noncertified workers engaged in the installation of the home. There shall be at least one certified manufactured home installer on the installation site whenever installation work is being performed.

A manufactured home installer certification shall not be required for:

- (1) Site preparation;
- (2) Sewer and water connections outside of the building site;
- (3) Specialty trades that are responsible for constructing accessory structures such as garages, carports, and decks;
- (4) Pouring concrete into forms;
- (5) Painting and dry wall finishing;
- (6) Carpet installation;
- (7) Specialty work performed within the scope of their license by licensed plumbers or electricians. This provision does not waive or lessen any state regulations related to licensing or permits required for electricians or plumbers;
- (8) A mobile or manufactured homeowner performing installation work on their own home; and
- (9) A manufacturer's mobile home installation crew installing a mobile or manufactured home sold by the manufacturer except for the on-site supervisor.

Violation of this section is an infraction. [1994 c 284 § 16. Formerly RCW 43.63B.090.]

43.22A.130 Certified installer required on-site—Infraction—Notice. An authorized representative of the department may issue a notice of infraction if the person supervising the manufactured home installation work fails to produce evidence of having a certificate issued by the department in accordance with this chapter. A notice of infraction issued under this chapter shall be personally served on or sent using a method by which the mailing can be tracked or the delivery can be confirmed to the person named in the notice by the authorized representative. [2011 c 301 § 12; 1994 c 284 § 25. Formerly RCW 43.63B.100.]

43.22A.140 Violations—Investigations—Inspections. An authorized representative may investigate alleged or apparent violations of this chapter. Upon presentation of credentials, an authorized representative, including a local gov-

ernment building official, may inspect sites at which manufactured home installation work is undertaken to determine whether such work is being done under the supervision of a certified manufactured home installer. Upon request of the authorized representative, a person performing manufactured home installation work shall identify the person holding the certificate issued by the department in accordance with this chapter. [1994 c 284 § 24. Formerly RCW 43.63B.110.]

43.22A.150 Violations—Separate infraction for each day, each worksite. Each day in which a person engages in the installation of manufactured homes in violation of this chapter is a separate infraction. Each worksite at which a person engages in the trade of manufactured home installation in violation of this chapter is a separate infraction. [1994 c 284 § 27. Formerly RCW 43.63B.120.]

43.22A.160 Violation—Use of uncertified installer. It is a violation of this chapter for any contractor, manufactured home dealer, manufacturer, or home dealer's or manufacturer's agent to engage any person to install a manufactured home who is not certified in accordance with this chapter. [1994 c 284 § 28. Formerly RCW 43.63B.130.]

43.22A.170 Notice of infraction. (1) The department shall prescribe the form of the notice of infraction issued under this chapter.

(2) The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of a monetary penalty that has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction; and

(g) A statement that failure to respond to a notice of infraction is a misdemeanor and may be punished by a fine or imprisonment in jail. [2006 c 270 § 11; 1994 c 284 § 26. Formerly RCW 43.63B.140.]

43.22A.180 Notice as determination. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction. [1994 c 284 § 30. Formerly RCW 43.63B.160.]

43.22A.190 Penalty. (1) A person found to have committed an infraction under this chapter may be assessed a

monetary penalty of two hundred fifty dollars for the first infraction and not more than one thousand dollars for a second or subsequent infraction. The department shall set by rule a schedule of monetary penalties for infractions imposed under this chapter.

(2) The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction.

(3) Monetary penalties collected under this chapter shall be deposited into the manufactured home installation training account created in RCW 43.22A.100 for the purposes specified in this chapter. [2017 c 10 § 1; 2007 c 432 § 5; 1994 c 284 § 31. Formerly RCW 43.63B.170.]

43.22A.200 Appeals. If a party desires to contest a notice of infraction and civil penalty issued under this chapter, the party must file a notice of appeal with the department within twenty days of the department mailing the notice of civil penalty. An administrative law judge of the office of administrative hearings shall hear and determine the appeal. Appeal proceedings must be conducted under chapter 34.05 RCW. An appeal of the administrative law judge's determination or order must be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure. [2007 c 432 § 4; 1994 c 284 § 29. Formerly RCW 43.63B.150.]

43.22A.210 Manufactured homes—Warranty disputes. The department may mediate disputes that arise regarding any warranty required in chapter 46.70 RCW pertaining to the purchase or installation of a manufactured home. The department may charge reasonable fees for this service and shall deposit the moneys collected in accordance with RCW 43.22A.100. [2007 c 432 § 8; 1994 c 284 § 12. Formerly RCW 46.70.136.]

Additional notes found at www.leg.wa.gov

43.22A.220 Rule adoption—Enforcement. The director may adopt rules in accordance with chapter 34.05 RCW, make specific decisions, orders, and rulings, include demands and findings within the decisions, orders, and rulings, and take other necessary action for the implementation and enforcement of duties under this chapter. [1994 c 284 § 32. Formerly RCW 43.63B.800.]

43.22A.901 Effective date—1994 c 284. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]. [1994 c 284 § 35. Formerly RCW 43.63B.901.]

**Chapter 43.23 RCW
DEPARTMENT OF AGRICULTURE**

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Seeds, director's duties relating to: Chapter 15.49 RCW.

Soil conservation: Chapter 89.08 RCW.

State fairs commission: Chapter 15.76 RCW.

State trade fair fund, horse racing moneys, disposition: RCW 43.31.805.

Vacancy: RCW 43.17.020, 43.17.040.

Weighing commodities in highway transport—Weighmasters, director's duties relating to: Chapter 15.80 RCW.

43.23.001 Definitions. For purposes of this chapter:

(1) "Department" means department of agriculture;

(2) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated. [1995 c 374 § 61.]

Additional notes found at www.leg.wa.gov

43.23.002 Director—Appointment—Powers and duties—Salary. The executive and administrative head of the department of agriculture shall be the director. The director shall be appointed by the governor with the consent of the senate and shall have complete charge of and supervisory power over the department. The director shall be paid a salary fixed by the governor in accordance with RCW 43.03.040. [1983 c 248 § 1.]

43.23.005 Deputy director—Appointment—Powers and duties. The director of agriculture may appoint a deputy director who shall assist the director in the administration of the affairs of the department and who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1983 c 248 § 2; 1967 c 240 § 14.]

[Title 43 RCW—page 246]

43.23.010 Divisions of department—Assistant directors—State veterinarian—Salaries—Assignment of duties. In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in RCW 41.06.070(1)(g), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and deputize a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state.

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions. [2002 c 354 § 244; 1990 c 37 § 1; 1983 c 248 § 3; 1967 c 240 § 1; 1965 c 8 § 43.23.010. Prior: 1951 c 170 § 1; 1921 c 7 § 83; RRS § 10841.]

Apiary advisory committee: RCW 15.60.010.

Additional notes found at www.leg.wa.gov

43.23.015 Divisions of department—Reassignment of division functions. Except for the functions specified in RCW 43.23.070, the director may, at his or her discretion, reassign any of the functions delegated to the various divisions of the department under the provisions of this chapter or any other law to any other division of the department. [2009 c 549 § 5103; 1983 c 248 § 4; 1967 c 240 § 15.]

43.23.025 Rule-making authority. For rules adopted after July 23, 1995, the director of agriculture may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 104.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.23.030 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties relating to the development of markets, for agricultural products, state and federal cooperative marketing programs, land utilization for agricultural purposes, water resources, transportation, and farm labor as such matters relate to the production, distribution and sale of agricultural commodities including private sector cultured aquatic products as defined in RCW 15.85.020. [1985 c 457 § 15; 1983 c 248 § 5; 1967 c 240 § 3; 1965 c 8 § 43.23.030. Prior: (i) 1921 c 7 § 90; RRS § 10848. (ii) 1937 c 90 § 10; RRS § 10847-1.]

Fair commission: Chapter 15.76 RCW.

Farm marketing: Chapters 15.64, 15.65, 15.66 RCW.

(2022 Ed.)

43.23.033 Funding staff support for commodity boards and commissions—Rules. (1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a position is not directly funded by the legislature.

(2) Staff support funded under this section, RCW 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180, 15.89.150, and 16.67.190, and chapter 15.115 RCW shall be limited to one-half full-time equivalent employee for all commodity boards and commissions. [2009 c 33 § 38; 2006 c 330 § 27; 2002 c 313 § 78.]

Additional notes found at www.leg.wa.gov

43.23.035 Powers and duties—State agricultural market development programs and activities. The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

(2) To collect, prepare, and analyze foreign and domestic market data;

(3) To establish a program to promote and assist in the marketing of Washington-bred horses: PROVIDED, That the department shall present a proposal to the legislature no later than December 1, 1986, that provides for the elimination of all state funding for the program after June 30, 1989;

(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

(5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

(6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

(7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

(8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

(9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

(10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

(11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

(12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

(2022 Ed.)

(13) To develop a coordinated marketing program with the *department of community, trade, and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming. [1995 c 399 § 70; 1986 c 202 § 1; 1985 c 159 § 3.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative declaration and intent—1985 c 159: "The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.

(2) The export of agricultural products produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, provides an important stabilizing effect on prices received by agricultural producers, and contributes to the United States balance of trade.

(3) State government should play a significant role in the development and expansion of markets for Washington grown and processed agricultural and food products.

(4) In order for state government to serve the best interests of agriculture in the area of market development, the role of state government in this area must be clearly defined.

(5) The department of agriculture, the department of commerce and economic development, and the IMPACT center at Washington State University, each possesses its own unique body of knowledge, expertise, and relationships that, when combined and applied in a logical and cooperative manner, will benefit the agricultural industry and the overall state economy and will provide a powerful force to seek aggressively new domestic and international markets for Washington's agricultural products.

It is the intent of the legislature to establish an organized agricultural market development function within state government with clearly defined areas of responsibility which will be responsive to the state's agricultural and food products industries' needs, without duplicating established private sector marketing efforts." [1985 c 159 § 1.]

Additional notes found at www.leg.wa.gov

43.23.037 Publishing and dissemination costs—Deposit of proceeds. The director may collect moneys to recover the reasonable costs of publishing and disseminating informational materials by the department. Materials may be disseminated in printed or electronic format. All moneys collected shall be deposited in the agricultural local fund or other appropriate fund administered by the director. [1997 c 303 § 5.]

Findings—1997 c 303: See note following RCW 43.135.055.

43.23.042 Consultation with commodity commissions. The director may consult with each commodity commission established under state law in order to establish or maintain an integrated comprehensive regulatory scheme for each commodity and the agricultural industry in this state as a whole. [2002 c 313 § 112.]

Additional notes found at www.leg.wa.gov

43.23.050 Powers and duties. The director of agriculture shall:

(1) Exercise all the powers and perform all the duties prescribed by law relating to horticulture, and horticultural plants and products;

(2) Enforce and supervise the administration of all laws relating to horticulture, horticultural products, and horticultural interests. [1983 c 248 § 6; 1967 c 240 § 5; 1965 c 8 § 43.23.050. Prior: 1921 c 7 § 91; RRS § 10849.]

Horticultural

pests and diseases: Chapter 15.08 RCW.
plants, Christmas trees, and facilities: Chapter 15.13 RCW.

43.23.070 Powers and duties of state veterinarian.

The state veterinarian shall exercise all the powers and perform all duties prescribed by law relating to diseases among animals and the quarantine and destruction of diseased animals.

The state veterinarian shall enforce and supervise the administration of all laws relating to meat inspection, the prevention, detection, control and eradication of diseases of animals, and all other matters relative to the diseases of livestock and their effect upon the public health. [1998 c 8 § 20; 1983 c 248 § 7; 1967 c 240 § 7; 1965 c 8 § 43.23.070. Prior: 1943 c 56 § 1; 1921 c 7 § 92; Rem. Supp. 1943 § 10850.]

Animal health: Chapter 16.36 RCW.

Dairies and dairy products: Chapter 15.36 RCW.

Diseased animals: Chapter 16.36 RCW.

43.23.090 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to the inspection of foods, food products, drinks, milk and milk products, and dairies and dairy products and the components thereof.

He or she shall enforce and supervise the administration of all laws relating to foods, food products, drinks, milk and milk products, dairies and dairy products, and their inspection, manufacture, and sale. [2009 c 549 § 5104; 1983 c 248 § 8; 1967 c 240 § 9; 1965 c 8 § 43.23.090. Prior: 1921 c 7 § 93; RRS § 10851.]

Commercial feed law: Chapter 15.53 RCW.

Eggs and egg products: Chapter 69.25 RCW.

Food, drugs and cosmetics: Chapter 69.04 RCW.

Honey: Chapter 69.28 RCW.

Weighing commodities in highway transport: Chapter 15.80 RCW.

Weights and measures: Chapter 19.94 RCW.

43.23.110 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides.

He or she shall enforce and supervise the administration of all laws relating to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides. [2009 c 549 § 5105; 1983 c 248 § 9; 1967 c 240 § 11; 1965 c 8 § 43.23.110. Prior: 1921 c 7 § 94; RRS § 10852.]

Commercial fertilizers: Chapter 15.54 RCW.

Grain and terminal warehouses: Chapter 22.09 RCW.

Quarantine: Chapter 17.24 RCW.

Seeds: Chapter 15.49 RCW.

Weeds: Chapters 17.04 and 17.06 RCW.

43.23.115 Gifts, grants, bequests, or contributions.

The director of the department may accept, expend, and retain gifts, grants, bequests, or contributions from public or private sources to carry out the purposes and programs of the department. [2011 c 245 § 1.]

43.23.120 Bulletins and reports. The director of agriculture may publish and distribute bulletins and reports embodying information upon the subjects of agriculture, horticulture, livestock, dairying, foods and drugs, and other matters pertaining to his or her department. [2009 c 549 § 5106; 1977 c 75 § 50; 1965 c 8 § 43.23.120. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.130 Annual report. The director of agriculture shall make an annual report to the governor containing an account of all matters pertaining to his or her department and its administration. [2009 c 549 § 5107; 1977 c 75 § 51; 1965 c 8 § 43.23.130. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.160 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties prescribed by law relating to commission merchants, livestock identification, livestock brand registration and inspection. All officers appointed to enforce these laws who have successfully completed a course of training prescribed by the Washington state criminal justice training commission shall have the authority generally vested in a peace officer solely for the purpose of enforcing these laws.

He or she shall enforce and supervise the administration of all laws relating to commission merchants, livestock identification and shall have the power to enforce all laws relating to any division under the supervision of the director of agriculture. [2009 c 549 § 5108; 1983 c 248 § 10; 1967 c 240 § 13. Prior: 1965 c 8 § 43.23.160; prior: 1951 c 170 § 3.]

43.23.170 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department of agriculture shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 623.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.23.200 Official chemists of department—Designated—Duties. The chief chemist of the department of agriculture dairy and food laboratory and the chief chemist of the department of agriculture chemical and hop laboratory shall be the official chemists of the department of agriculture. Official chemists of the department shall provide laboratory services and analyze all substances that the director of agriculture may send to them and report to the director without unnecessary delay the results of any analysis so made. When called upon by the director, they or any of the additional chemists provided for pursuant to RCW 43.23.205 shall assist in any prosecution for the violation of any law enforced by the department. [1987 c 393 § 14; 1981 c 297 § 27.]

Additional notes found at www.leg.wa.gov

43.23.205 Additional chemists—Appointment—Duties—Compensation. The director of agriculture may appoint one or more competent graduate chemists to serve as additional chemist of the department of agriculture, who may perform any of the duties required of and under the supervi-

sion of the official chemists, and whose compensation shall be fixed by the director. [1981 c 297 § 28.]

Additional notes found at www.leg.wa.gov

43.23.220 Disposition of impounded livestock on Hanford reservation—Agreements to act as federal government's agent. The director of agriculture may enter written agreements with one or more agencies of the United States to act as the federal government's agent for determining the disposition of livestock impounded on the federal Hanford reservation. The director's authority under such an agreement may include, but is not limited to, selling or donating, on behalf of the federal government, unclaimed livestock to a qualified person, organization, or governmental agency that the director determines to be capable of humanely transporting and caring for the livestock. The director may sell or donate such livestock only if the livestock remains unclaimed after the completion of a reasonable attempt to ascertain ownership and, if ownership is not otherwise determined, by the publication of notice that the livestock has been impounded on the reservation. [1983 c 248 § 12.]

43.23.230 Agricultural local fund—Animal disease traceability account. (1) The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation.

(2) There is created within the agricultural local fund the animal disease traceability account which must be used to account for the costs associated with the implementation of chapter 16.36 RCW. [2011 c 204 § 7; 1988 c 254 § 1.]

43.23.250 Collection of unpaid penalties, assessments, and debts—Use of collection agencies. Except as otherwise specified by law, the director or his or her designee has the authority to retain collection agencies licensed under chapter 19.16 RCW for the purposes of collecting unpaid penalties, assessments, and other debts owed to the department.

The director or his or her designee may also collect as costs moneys paid to the collection agency as charges, or in the case of credit cards or financial instruments, such as checks returned for nonpayment, moneys paid to financial institutions. [1995 c 374 § 62.]

Additional notes found at www.leg.wa.gov

43.23.255 Assessments levied by director—Personal debt—Costs of collecting—Civil actions authorized—Attorneys' fees. Except as otherwise specified by law, any due and payable assessment levied under the authority of the director or his or her designee in such specified amount as may be determined by the department shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the department when payment is called for by the department. In the

event any person fails to pay the department the full amount of such assessment or such other sum on or before the date due, the department may, and is hereby authorized to, add to such unpaid assessment or other sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other sum, the department may bring a civil action against such person or persons in a court of competent jurisdiction for the collections thereof, including all costs and reasonable attorneys' fees together with the above specified ten percent, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable. [1995 c 374 § 63.]

Additional notes found at www.leg.wa.gov

43.23.260 Interest on unpaid balances. Except as otherwise specified by law, the department is authorized to charge interest at the rate authorized under RCW 43.17.240 for all unpaid balances for moneys owed to the department. [1995 c 374 § 64.]

Additional notes found at www.leg.wa.gov

43.23.265 Dishonored check or negotiable instrument. Except as otherwise specified by law, in the event a check or negotiable instrument as defined by RCW 62A.3-104 is dishonored by nonacceptance or nonpayment, the department is entitled to collect a reasonable handling fee for each instrument. If the check or instrument is not paid within fifteen days and proper notice is sent, the department is authorized to recover the assessment, the handling fee, and any other charges allowed by RCW 62A.3-515. [1995 c 374 § 65.]

Additional notes found at www.leg.wa.gov

43.23.270 Export market development project records—Confidentiality. Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects shall be kept confidential unless confidentiality is waived by the party supplying the information. For purposes of this section, persons include any natural person, joint venture, firm, partnership or association, private or public corporation, or governmental entity. [1996 c 80 § 2.]

43.23.275 Market development and promotion matching fund program. There is created a market development and promotion matching fund program within the Washington state department of agriculture. The purpose of the program is to allow the department of agriculture and the agricultural industry to combine funds in order to enhance access to markets that are growth sales areas for the industry's product. The goal of the program is to expose buyers to Washington's diverse agricultural products. The agriculture [agricultural] industry may bring in buying missions, perform trade promotions in various markets, hire overseas contractors, and perform other marketing functions that help it target the correct buyer and market for its product. [2001 c 324 § 2.]

Findings—Intent—2001 c 324: "The legislature finds that the growing and processing of food and agricultural products is the dominant industry in Washington state and a major employer in rural Washington. The legislature also finds that agriculture is a critical component of Washington's international trade industry, accounting for billions of dollars in exports every year.

The legislature further finds that the export market for Washington's agricultural products has dropped significantly in recent years and that such a drop has negatively impacted the economy in Washington's agricultural regions. Therefore, it is the intent of the legislature to enhance Washington's international trade of agricultural products by increasing funding for the Washington state department of agriculture's international marketing program in an effort to promote marketing of Washington's products and to assist the agricultural industry in efforts to reduce trade barriers that stand in the way of trade in new and emerging markets." [2001 c 324 § 1.]

43.23.280 Trade barrier matching fund program. (1)

The legislature finds that trade barriers have become an increasingly important issue in the agricultural arena. Further, the world trade organization highlighted the need for "a fair and level playing field." The legislature finds that both large and small commodity groups need adequate resources to address trade barrier issues.

(2) There is created within the department of agriculture a trade barrier matching fund program to assist agriculture [agricultural] industries in fighting trade barriers. The purpose of the program is to allow the department of agriculture and the agricultural industry to combine funds in order to address trade barriers issues impacting the agricultural industry. [2001 c 324 § 3.]

Findings—Intent—2001 c 324: See note following RCW 43.23.275.

43.23.290 Food assistance programs. The director of the department may exercise powers and duties with respect to the administration of food assistance programs in the department. It is the intent of the legislature in administering the food assistance programs transferred to the department by chapter 68, Laws of 2010, that programs continue to be provided through community-based organizations. It is the intent of the legislature that in accepting the administration of food assistance programs, the department's core programs administered by the department by July 1, 2010, not be impacted.

The director of the department may adopt rules necessary to implement the food assistance programs.

The director may enter into contracts and agreements to implement food assistance programs, including contracts and agreements with the United States department of agriculture, to implement federal food assistance programs. [2010 c 68 § 1.]

Additional notes found at www.leg.wa.gov

43.23.300 Program to promote and protect pollinator habitat and pollinator species. (1) The department shall establish a program to promote and protect pollinator habitat and the health and sustainability of pollinator species. As funds are made available, the program must provide technical and financial assistance to state agencies, local governments, and private landowners to implement practices that promote habitat for all pollinators, including native species, as well as beekeeper and grower best management practices. The program must be administered in coordination with the apiary program established in chapter 15.60 RCW, the honey bee commission authorized in chapter 15.62 RCW, and programs administered by the conservation commission and conservation districts.

(2) Subject to the availability of funds appropriated for this specific purpose, and in consultation with the department of fish and wildlife, the department must:

(a) Review, in consultation with Washington State University, education needs related to pollinator education and develop a plan that outlines the goals related to pollinator education and the necessary partners, personnel, and other resources;

(b) Evaluate and complete an analysis of critical impacts and needed best management practices for managed and wild pollinators. The department shall lead this effort in partnership with Washington State University, and in collaboration with the department of fish and wildlife and the state conservation commission. The effort must utilize the framework established in the state's managed pollinator protection plan as a guide for formal recommendations and education opportunities. The analysis must address food insecurities, habitat loss, virus and disease, pests, and pesticides, which may play a role in pollinator health decline. The department shall make the resources produced pursuant to this subsection available to the public on the department's website, as well as through Washington State University and the state's conservation districts;

(c) Document, in consultation with Washington State University, the bee species within the state and map their distributions as practicable;

(d) Provide economic and environmental impacts of weed listing and categorization on pollinator health to county noxious weed control boards in consultation with the state noxious weed control board and annually submit a report to the noxious weed control board describing pollinator health issues;

(e) Provide materials, where practicable and in consultation with Washington State University, about certification programs that support pollinator health, biodiversity, and low-impact pesticide application to the public;

(f) Educate the public through plant nurseries about the necessity for blooming nectar plants to be available to wild and managed pollinators throughout their respective active seasons;

(g) Survey registered beekeepers to determine whether the current apiary program should be expanded to include apiary inspections or registration of apiary yards;

(h) Continue and maintain partnership with federal agencies and neighboring states to promote and enhance the implementation of the national strategy to promote the health of honey bees and improve pollinator health;

(i) Increase the availability of pollinator-related resources on the department's website, as practicable, and other state agencies' websites as appropriate;

(j) Review guidelines on state-managed lands to protect native pollinators and improve transparency for state-managed land areas which may permit managed honey bees so that impacts to wild pollinators from honey bees may be minimized; and

(k) In consultation with the department of revenue, review the open space taxation act and provide recommendations to the legislature, in compliance with RCW 43.01.036, on options to include pollinator habitat in the current open space property tax classification. [2021 c 278 § 3; 2019 c 353 § 2.]

Purpose—Intent—2021 c 278: See note following RCW 43.23.320.

Findings—Intent—2019 c 353: "The legislature finds that more than three-fourths of the world's flowering plants and about thirty-five percent of the world's food crops depend on pollinators to reproduce. In Washington state, honey bees and other pollinators are responsible for the production of tree fruits, small fruits, and other crops, with the value in 2016 of crops pollinated by honey bees exceeding three billion dollars. The legislature further finds that, beyond agriculture, pollinators are keystone species in the terrestrial ecosystems of Washington, with fruit and seeds derived from insect pollination providing a major part of the diet of numerous bird and mammal species. The state has experienced pollinator habitat loss through property conversion, fragmentation, and degradation of land, and with the state's population continuing to grow at a fast pace, the additional loss of habitat is a significant concern.

Therefore, the legislature intends by this act to initiate a concerted effort to protect and expand the habitat upon which pollinators depend, by providing technical and financial assistance to public and private landowners, and by coordinating with other state agencies and local governments in promoting practices to ensure sustainable, healthy populations of managed and native pollinators." [2019 c 353 § 1.]

43.23.310 Environmental justice obligations of the department of agriculture. The department must apply and comply with the substantive and procedural requirements of chapter 70A.02 RCW. [2021 c 314 § 6.]

Conflict with federal requirements—2021 c 314: See note following RCW 70A.02.005.

43.23.320 Pollinator health task force. (Expires January 1, 2024.) (1) The department shall create and chair a pollinator health task force. The department shall appoint the members of the task force, which must include, but is not limited to, representatives of the following interests, organizations, and state agencies:

- (a) The conservation commission;
- (b) The department of natural resources;
- (c) The department of fish and wildlife;
- (d) The state parks and recreation commission;
- (e) The Washington state department of transportation;
- (f) The state noxious weed control board;
- (g) The tree fruit industry;
- (h) The seed industry;
- (i) The berry industry;
- (j) Other agricultural industries dependent upon pollinators;
- (k) Washington State University;
- (l) Pesticide distributors and applicators;
- (m) Conservation organizations;
- (n) Organizations representing beekeepers or apiarists;
- (o) A member of the public from west of the crest of the Cascade mountains; and
- (p) A member of the public from east of the crest of the Cascade mountains.

(2) One or more representatives of Washington tribes must also be invited to participate on the task force.

(3) One youth representative from an organization that encourages students to engage in agricultural education must also be invited to participate on the task force when available.

(4) The task force shall build upon existing pollinator research and pollinator habitat plans at the national and state level including, but not limited to, the state-managed pollinator plan, to assist with the development of an implementation plan to implement the state pollinator health strategy.

(2022 Ed.)

(5) The task force shall assist, as practicable, with implementation of the recommendations of the task force submitted to the legislature in November 2020.

(6) The department shall provide the implementation plan to the appropriate committees of the senate and house of representatives by December 31, 2021, in compliance with RCW 43.01.036. The implementation plan must include the task force's evaluation and development of protocols that would increase communications between beekeepers, farmers and growers, and pesticide applicators including, but not limited to, education and outreach to beekeepers, farmers and growers, and pesticide applicators.

(7) The department shall provide information related to implementation of the state pollinator health strategy and a recommendation of whether to extend the task force beyond January 1, 2024, to the appropriate committees of the senate and house of representatives by December 1, 2022, in compliance with RCW 43.01.036.

(8) This section expires January 1, 2024. [2021 c 278 § 2.]

Purpose—Intent—2021 c 278: "(1) The purpose of this act is to implement the recommendations of the pollinator health task force created by section 3, chapter 353, Laws of 2019, entitled "Recommendations of the Pollinator Health Task Force - for Pollinator Health in Washington" (November 2020).

(2) The task force provided recommendations to help prioritize and enact policy changes for pollinators in Washington. The recommendations are organized under five broad categories: (a) Habitat; (b) pesticides; (c) education; (d) managed pollinators; and (e) research.

(3) The task force met for the first time the same week that the Asian giant hornet was first discovered in Washington and the week after the Houdini fly was also reported for the first time in Washington. Asian giant hornets primarily hunt honey bees and destroy entire honey bee hives. The Houdini fly threatens native mason bee populations as well as managed mason bees. Washington is home to over 400 different species of native bees, 65 species of butterflies, as well as moths, wasps, beetles, flies, and hummingbirds. The loss of pollinators, managed and unmanaged, can lead to decreased yields of many fruits, nuts, and vegetables. Washington is currently the top producer in the United States of apples, sweet cherries, alfalfa, blueberries, and pears. In Washington state, honey bees and other pollinators are responsible for the production of tree fruits, small fruits, and other crops.

(4) The legislature intends by this act to implement various recommendations from the pollinator health task force to protect and expand the habitat upon which pollinators depend, by providing technical and financial assistance to public and private landowners, and by coordinating with state agencies and local governments in promoting practices to ensure sustainable, healthy populations of managed and native pollinators." [2021 c 278 § 1.]

Chapter 43.24 RCW

DEPARTMENT OF LICENSING

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43.24.001 Department of licensing—Creation—Director—Powers, duties, and functions—Personnel. See chapter 46.01 RCW.

43.24.005 Director—Appointment—Salary. The director of licensing shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor in accordance with RCW 43.03.040. [1999 c 240 § 3.]

43.24.016 Powers and duties—Generally. (1) The director of licensing shall supervise and administer the activities of the department of licensing and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director has the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the responsibilities of the department;

(b) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(c) Appoint a deputy director and such assistant directors, special assistants, and administrators as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary to carry out the responsibilities of the department;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director is responsible for the official acts of the officers and employees of the department; and

(f) Perform other duties as are necessary and consistent with law.

(3) The director may establish advisory groups as may be necessary to carry out the responsibilities of the department.

(4) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [1999 c 240 § 4.]

43.24.020 Powers and duties—Licensing. In addition to other powers and duties granted to the department, the director of licensing shall administer all laws with respect to the examination of applicants for, and the issuance of, licenses to persons to engage in any business, profession, trade, occupation, or activity except for health professions. [1999 c 240 § 1; 1994 c 92 § 496; 1989 1st ex.s. c 9 § 314; 1979 c 158 § 95; 1965 c 100 § 2; 1965 c 8 § 43.24.020. Prior: (i) 1921 c 7 § 96; RRS § 10854. (ii) 1921 c 7 § 104; RRS § 10862. (iii) 1929 c 133 § 1; RRS § 5852-24.]

Powers, duties and functions of director and department of licensing: Chapter 46.01 RCW.

Additional notes found at www.leg.wa.gov

43.24.023 Rule-making authority. For rules adopted after July 23, 1995, the director of the department of licensing may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of, a statute. [1995 c 403 § 107.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.24.030 "License" defined. The word "license" shall be construed to mean and include license, certificate of registration, certificate of qualification, certificate of competency, certificate of authority, and any other instrument, by whatever name designated, authorizing the practice of a profession or calling, the carrying on of a business or occupation, or the doing of any act required by law to be authorized by the state. [1965 c 8 § 43.24.030. Prior: 1921 c 7 § 98; RRS § 10856.]

43.24.040 Forms to be prescribed. The director of licensing shall prescribe the various forms of applications, certificates, and licenses required by law. [1979 c 158 § 97; 1965 c 8 § 43.24.040. Prior: 1921 c 7 § 97; RRS § 10855.]

Application forms—Licenses—Mention of race or religion prohibited—Penalty: RCW 43.01.100.

Director to prescribe forms for applications, certificates of title, registration certificates, etc.: RCW 46.01.160.

43.24.060 Examinations—Committees—Duties, compensation, travel expenses. (1) The director of licensing shall, from time to time, fix such times and places for holding examinations of applicants as may be convenient, and adopt general rules and regulations prescribing the method of conducting examinations.

The governor, from time to time, upon the request of the director of licensing, shall appoint examining committees, composed of three persons possessing the qualifications provided by law to conduct examinations of applicants for licenses to practice the respective professions or callings for which licenses are required.

The committees shall prepare the necessary lists of examination questions, conduct the examinations, which may be either oral or written, or partly oral and partly written, and shall make and file with the director of licensing lists, signed by all the members conducting the examination, showing the names and addresses of all applicants for licenses who have successfully passed the examination, and showing separately the names and addresses of the applicants who have failed to pass the examination, together with all examination questions and the written answers thereto submitted by the applicants.

Each member of a committee shall receive twenty-five dollars per day for each day spent in conducting the examination and in going to and returning from the place of examination, and travel expenses, in accordance with RCW 43.03.050 and 43.03.060.

(2022 Ed.)

(2) The director of licensing may appoint advisory committees to advise the department regarding the preparation of examinations for professional licensing and such other specific aspects of regulating the professions within the jurisdiction of the department as the director may designate. Such a committee and its members shall serve at the pleasure of the director.

Each member of an advisory committee shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in attending meetings of the committee in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 78; 1982 c 227 § 15; 1979 c 158 § 98; 1975-'76 2nd ex.s. c 34 § 105; 1965 c 100 § 3; 1965 c 8 § 43.24.060. Prior: 1921 c 7 § 99; RRS § 10857.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.24.065 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The director of licensing may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of licensing, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1985 c 116 § 1.]

43.24.080 Issuance of licenses. Except as provided in RCW 43.24.112, at the close of each examination the department of licensing shall prepare the proper licenses, where no further fee is required to be paid, and issue licenses to the successful applicants signed by the director and notify all successful applicants, where a further fee is required, of the fact that they are entitled to receive such license upon the payment of such further fee to the department of licensing and notify all applicants who have failed to pass the examination of that fact. [1997 c 58 § 866; 1979 c 158 § 99; 1965 c 100 § 4; 1965 c 8 § 43.24.080. Prior: 1921 c 7 § 101; RRS § 10859.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.24.084 Professional licenses—Use of social security numbers and drivers' license numbers prohibited. Social security numbers and drivers' license numbers may not be used as part of a professional license. Professional licenses containing such information that are in existence on January 1, 2002, shall comply with this section by the next renewal date. [2001 c 276 § 1.]

Additional notes found at www.leg.wa.gov

43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule. It shall be the policy of the state of Washington that the cost of each professional, occupational[,], or business licensing program be fully borne by the members of that profession, occupation[,], or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations[,], or businesses, except for health professions, administered by the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [1999 c 240 § 2; 1989 1st ex.s. c 9 § 315; 1987 c 467 § 7; 1983 c 168 § 12.]

Regulation of health professions: Chapters 18.120 and 18.122 RCW.

Additional notes found at www.leg.wa.gov

43.24.090 Examination of persons with disabilities. Any person taking any written examination prescribed or authorized by law, for a license or permit to practice any trade, occupation, or profession, who, because of any disability, is unable to write the examination himself or herself, may dictate it to and have it written or typed by another, to the same effect as though the examination were written out by himself or herself. Any expense connected therewith shall be borne by the person taking the examination. [2020 c 274 § 22; 2009 c 549 § 5109; 1965 c 8 § 43.24.090. Prior: 1947 c 143 § 1; Rem. Supp. 1947 § 8265-20.]

43.24.112 Suspension of license—Noncompliance with support order—Reissuance. The department shall immediately suspend any license issued by the department of licensing of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 869.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.24.115 Director's duties as to refusal, revocation or suspension of licenses—Performance by assistants. The director may deputize one or more of his or her assistants to perform his or her duties with reference to refusal, revocation or suspension of licenses, including the power to preside

at hearings and to render decisions therein subject to the approval of the director. [2009 c 549 § 5110; 1965 c 100 § 6.]

43.24.120 Appeal—Further review. Except as provided in RCW 43.24.112, any person feeling aggrieved by the refusal of the director to issue a license, or to renew one, or by the revocation or suspension of a license shall have a right of appeal to superior court from the decision of the director of licensing, which shall be taken, prosecuted, heard, and determined in the manner provided in chapter 34.05 RCW.

The decision of the superior court may be reviewed by the supreme court or the court of appeals in the same manner as other civil cases. [1997 c 58 § 868; 1987 c 202 § 212; 1979 c 158 § 102; 1971 c 81 § 112; 1965 c 8 § 43.24.120. Prior: 1921 c 7 § 106; RRS § 10864.]

Rules of court: *Writ procedure superseded by RAP 2.1, 2.2, 18.22.*

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

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

Additional notes found at www.leg.wa.gov

43.24.125 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department of licensing shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 624.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.24.130 License moratorium for persons in service—Rules. (1) Notwithstanding any provision of law to the contrary, the license of any person licensed by the director of licensing, or the boards and commissions listed in chapter 18.235 RCW, to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces, the United States public health service commissioned corps, or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The director, board, or commission shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period.

(2) If requested by the licensee, the license of a spouse or registered domestic partner of a servicemember in the United States armed forces, including the United States public health service commissioned corps, if valid and in force and effect at the time the servicemember is deployed or stationed in a location outside Washington state, must be placed in inactive military spouse or registered domestic partner status so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The director, board, or commission shall return to active status the license of every such person who applies for activation within six months after returning to Washington state, upon payment of the current renewal fee and meeting the current renewal conditions of the respective license.

(3) The director, board, or commission may adopt any rules necessary to implement this section. [2012 c 45 § 1; 1979 c 158 § 103; 1965 c 8 § 43.24.130. Prior: 1945 c 112 § 1; 1943 c 108 § 1; RRS § 10864-1.]

43.24.140 Extension or modification of licensing, certification, or registration period authorized—Rules and regulations, manner and content. Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the director of licensing may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the director determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of licensing adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period. [1984 c 279 § 25; 1979 c 158 § 104; 1971 c 52 § 1.]

Additional notes found at www.leg.wa.gov

43.24.150 Business and professions account. (1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

- (a) Chapter 18.11 RCW, auctioneers;
- (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- (c) Chapter 18.145 RCW, court reporters;
- (d) Chapter 18.165 RCW, private investigators;
- (e) Chapter 18.170 RCW, security guards;
- (f) Chapter 18.185 RCW, bail bond agents;
- (g) Chapter 18.280 RCW, home inspectors;
- (h) Chapter 19.16 RCW, collection agencies;
- (i) Chapter 19.31 RCW, employment agencies;
- (j) Chapter 19.105 RCW, camping resorts;
- (k) Chapter 19.138 RCW, sellers of travel;
- (l) Chapter 42.45 RCW, notaries public;
- (m) Chapter 64.36 RCW, timeshares;
- (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- (p) Chapter 79A.60 RCW, whitewater river outfitters;
- (q) Chapter 19.158 RCW, commercial telephone solicitation; and
- (r) Chapter 19.290 RCW, scrap metal businesses.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in

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the account must be accumulated and may not revert to the general fund at the end of the biennium. However, during the 2013-2015 fiscal biennium the legislature may transfer to the state general fund such amounts as reflect the excess fund balance in the account.

(2) The director must biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which must include the estimated income from these business and professions fees. [2017 c 281 § 40; 2013 2nd sp.s. c 4 § 978; 2013 2nd sp.s. c 4 § 977; 2013 c 322 § 30; 2011 c 298 § 25. Prior: 2009 c 429 § 4; 2009 c 412 § 21; 2009 c 370 § 19; 2008 c 119 § 22; 2005 c 25 § 1.]

Effective date—2017 c 281: See RCW 42.45.905.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Purpose—Intent—Agency transfer—Contracting—Effective date—2011 c 298: See notes following RCW 19.02.020.

Finding—2009 c 370: See note following RCW 18.96.010.

Additional notes found at www.leg.wa.gov

43.24.170 Wage lien forms. For the purposes of implementing the notice and filing provisions under RCW 60.90.030(2)(a) and 60.90.090 that are applicable to the department of licensing, the department of licensing may, by rule, create wage lien forms specific to the department of licensing, so long as the forms include the information described in those sections. [2021 c 102 § 19.]

Short title—Effective date—2021 c 102: See RCW 60.90.900 and 60.90.902.

43.24.175 Department of licensing wage lien account. The department of licensing wage lien account is created in the state treasury. All receipts from wage lien filing fees collected by the department of licensing must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to administer wage lien filings in RCW 60.90.030. [2021 c 102 § 20.]

Short title—Effective date—2021 c 102: See RCW 60.90.900 and 60.90.902.

Chapter 43.27A RCW WATER RESOURCES

Sections

- 43.27A.020 Definitions.
- 43.27A.090 Powers and duties of department.
- 43.27A.130 Department of ecology to inventory state water resources.
- 43.27A.190 Water resource orders.
- 43.27A.220 "Person" defined.
- 43.27A.900 Liberal construction.

43.27A.020 Definitions. As used in this chapter, and unless the context indicates otherwise, words and phrase shall mean:

"Department" means the department of ecology;

"Director" means the director of ecology;

"State agency" and "state agencies" mean any branch, department or unit of state government, however designated or constituted;

"Water resources" means all waters above, upon, or beneath the surface of the earth, located within the state and over which the state has sole or concurrent jurisdiction.

"Beneficial use" means, but its meaning shall not be limited to: Domestic water supplies; irrigation; fish, shellfish, game, and other aquatic life; recreation; industrial water supplies; generation of hydroelectric power; and navigation. [1987 c 109 § 31; 1967 c 242 § 2.]

Purpose—Short title—Construction—Rules—Severability—Cap-tions—1987 c 109: See notes following RCW 43.21B.001.

43.27A.090 Powers and duties of department. The department shall be empowered as follows:

(1) To represent the state at, and fully participate in, the activities of any basin or regional commission, interagency committee, or any other joint interstate or federal-state agency, committee or commission, or publicly financed entity engaged in the planning, development, administration, management, conservation or preservation of the water resources of the state.

(2) To prepare the views and recommendations of the state of Washington on any project, plan or program relating to the planning, development, administration, management, conservation and preservation of any waters located in or affecting the state of Washington, including any federal permit or license proposal, and appear on behalf of, and present views and recommendations of the state at any proceeding, negotiation or hearing conducted by the federal government, interstate agency, state or other agency.

(3) To cooperate with, assist, advise and coordinate plans with the federal government and its officers and agencies, and serve as a state liaison agency with the federal government in matters relating to the use, conservation, preservation, quality, disposal or control of water and activities related thereto.

(4) To cooperate with appropriate agencies of the federal government and/or agencies of other states, to enter into contracts, and to make appropriate contributions to federal or interstate projects and programs and governmental bodies to carry out the provisions of this chapter.

(5) To apply for, accept, administer and expend grants, gifts and loans from the federal government or any other entity to carry out the purposes of this chapter and make contracts and do such other acts as are necessary insofar as they are not inconsistent with other provisions hereof.

(6) To develop and maintain a coordinated and comprehensive state water and water resources related development plan, and adopt, with regard to such plan, such policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best interest of the state. There shall be included in the state plan a description of developmental objectives and a statement of the recommended means of accomplishing these objectives. To the extent the director deems desirable, the plan shall integrate into the state plan, the plans, programs, reports, research and studies of other state agencies.

(7) To assemble and correlate information relating to water supply, power development, irrigation, watersheds, water use, future possibilities of water use and prospective demands for all purposes served through or affected by water resources development.

(8) To assemble and correlate state, local and federal laws, regulations, plans, programs and policies affecting the beneficial use, disposal, pollution, control or conservation of water, river basin development, flood prevention, parks, reservations, forests, wildlife refuges, drainage and sanitary systems, waste disposal, waterworks, watershed protection and development, soil conservation, power facilities and area and municipal water supply needs, and recommend suitable legislation or other action to the legislature, the congress of the United States, or any city, municipality, or to responsible state, local or federal executive departments or agencies.

(9) To cooperate with federal, state, regional, interstate and local public and private agencies in the making of plans for drainage, flood control, use, conservation, allocation and distribution of existing water supplies and the development of new water resource projects.

(10) To encourage, assist and advise regional, and city and municipal agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and coordinate local water resources activities, programs, and plans.

(11) To promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(12) To hold public hearings, and make such investigations, studies and surveys as are necessary to carry out the purposes of the chapter.

(13) To subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production of any books or papers when the department deems such measures necessary in the exercise of its rule-making power or in determining whether or not any license, certificate, or permit shall be granted or extended. [1988 c 127 § 25; 1967 c 242 § 9.]

43.27A.130 Department of ecology to inventory state water resources. The department of ecology may make complete inventories of the state's water resources and enter into such agreements with the director of the United States geological survey as will insure that investigations and surveys are carried on in an economical manner. [1988 c 127 § 26; 1967 c 242 § 15.]

43.27A.190 Water resource orders. Notwithstanding and in addition to any other powers granted to the department of ecology, whenever it appears to the department that a person is violating or is about to violate any of the provisions of the following:

- (1) Chapter 90.03 RCW; or
- (2) Chapter 90.44 RCW; or
- (3) Chapter 86.16 RCW; or
- (4) Chapter 70A.10 RCW; or
- (5) Chapter 43.27A RCW; or
- (6) Any other law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department relating to subsections (1) through (6) of this section; the department may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him or her. The order shall specify the provision of the statute, rule,

regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03.070, by a watermaster, stream patrol officer, or other person so authorized by the department shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein. Any person aggrieved by such order may appeal the order pursuant to RCW 43.21B.310. [2020 c 20 § 1043; 2009 c 549 § 5111; 1987 c 109 § 11; 1969 ex.s. c 284 § 7.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Additional notes found at www.leg.wa.gov

43.27A.220 "Person" defined. Whenever the word "person" is used in RCW 43.27A.190, it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever. [1988 c 127 § 27; 1969 ex.s. c 284 § 11.]

Additional notes found at www.leg.wa.gov

43.27A.900 Liberal construction. The rule of strict construction shall have no application to this chapter, but the same shall be liberally construed, in order to carry out the purposes and objectives for which this chapter is intended. [1967 c 242 § 22.]

Chapter 43.30 RCW

DEPARTMENT OF NATURAL RESOURCES

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PART 1 GENERAL

43.30.010 Purpose. The purpose of this chapter is to provide for more effective and efficient management of the forest and land resources in the state by consolidating into a department of natural resources certain powers, duties and functions of the division of forestry of the department of conservation and development, the board of state land commissioners, the state forest board, all state sustained yield forest committees, director of conservation and development, state capitol committee, director of licensing, secretary of state, director of revenue, and commissioner of public lands. [1979 c 107 § 4; 1965 c 8 § 43.30.010. Prior: 1957 c 38 § 1.]

43.30.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the department of natural resources.

(2) "Agency" and "state agency" means any branch, department, or unit of the state government, however designated or constituted.

(3) "Board" means the board of natural resources.

(4) "Commissioner" means the commissioner of public lands.

(5) "Department" means the department of natural resources.

(6) "Supervisor" means the supervisor of natural resources. [2010 c 126 § 7; 2009 c 163 § 6; 1965 c 8 § 43.30.020. Prior: 1957 c 38 § 2.]

Findings—Intent—2009 c 163: See note following RCW 43.30.835.

43.30.030 Department created. The department of natural resources is hereby created, to consist of a board of natural resources, an administrator and a supervisor. [1965 c 8 § 43.30.030. Prior: 1957 c 38 § 3.]

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43.30.035 Environmental justice obligations of the department of natural resources. The department must apply and comply with the substantive and procedural requirements of chapter 70A.02 RCW. [2021 c 314 § 7.]

Conflict with federal requirements—2021 c 314: See note following RCW 70A.02.005.

43.30.055 Employees—Applicability of merit system. All employees of the department shall be governed by any merit system which is now or may hereafter be enacted by law governing such employment. [2003 c 334 § 119; 1965 c 8 § 43.30.270. Prior: 1957 c 38 § 27. Formerly RCW 43.30.270.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 2 ORGANIZATION

43.30.105 Administrator of department. The commissioner of public lands shall be the administrator of the department. [1965 c 8 § 43.30.050. Prior: 1957 c 38 § 5. Formerly RCW 43.30.050.]

43.30.111 Local wildland fire liaison. (1) The commissioner must appoint a local wildland fire liaison that reports directly to the commissioner or the supervisor and generally represents the interests and concerns of landowners and the general public during any fire suppression activities of the department.

(2) The role of the local wildland fire liaison is to:

(a) Provide advice to the commissioner on issues such as access to land during fire suppression activities, the availability of local fire suppression assets, environmental concerns, and landowner interests; and

(b) Fulfill other duties as assigned by the commissioner or the legislature, including the recruitment of local wildland fire suppression contractors as provided in RCW 76.04.181.

(3) In appointing the local wildland fire liaison, the commissioner must consult with county legislative authorities either directly or through an organization that represents the interests of county legislative authorities.

(4) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described. [2017 c 104 § 2; 2015 c 182 § 1.]

Effective date—2017 c 104: See note following RCW 76.04.181.

43.30.155 Supervisor of natural resources—Appointment. The supervisor shall be appointed by the administrator with the advice and consent of the board. The supervisor shall serve at the pleasure of the administrator. [2003 c 334 § 105; 1965 c 8 § 43.30.060. Prior: 1957 c 38 § 6. Formerly RCW 43.30.060.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 3 BOARD OF NATURAL RESOURCES

43.30.205 Board of natural resources—Composition. (1) The board shall consist of six members:

(a) The governor or the governor's designee;

(b) The superintendent of public instruction;

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(c) The commissioner;

(d) The director of the University of Washington school of forest resources;

(e) The dean of the Washington State University college of agricultural, human, and natural resource sciences; and

(f) A representative of those counties that contain state forestlands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020.

(2)(a) The county representative on the board shall be selected by the legislative authorities of those counties that contain state forestlands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall convene a meeting for the purpose of making the selection and shall notify the board of the selection.

(b) The county representative must be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986. [2010 c 189 § 1; 2003 c 334 § 104; 1986 c 227 § 1; 1979 ex.s. c 57 § 9; 1965 c 8 § 43.30.040. Prior: 1957 c 38 § 4. Formerly RCW 43.30.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.215 Powers and duties of board. The board shall:

(1) Perform duties relating to appraisal, appeal, approval, and hearing functions as provided by law;

(2) Establish policies to ensure that the acquisition, management, and disposition of all lands and resources within the department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with laws applicable thereto;

(3) Constitute the board of appraisers provided for in Article 16, section 2 of the state Constitution;

(4) Constitute the commission on harbor lines provided for in Article 15, section 1 of the state Constitution as amended;

(5) Constitute the board on geographic names as provided for in RCW 43.30.291 through 43.30.295; and

(6) Adopt and enforce rules as may be deemed necessary and proper for carrying out the powers, duties, and functions imposed upon it by this chapter. [2011 c 355 § 1; 2003 c 334 § 112; 1988 c 128 § 10; 1986 c 227 § 2; 1975-'76 2nd ex.s. c 34 § 107; 1965 c 8 § 43.30.150. Prior: 1957 c 38 § 15. Formerly RCW 43.30.150.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.225 Board's duties—Meetings—Organization. The board shall:

(1) Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chair or majority of the board membership upon written notice to all members. However, the board may dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;

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(2) Employ and fix the compensation of technical, clerical, and other personnel as deemed necessary for the performance of its duties;

(3) Appoint such advisory committees as deemed appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but are entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060;

(4) Meet and organize on the third Tuesday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chair. The commissioner of public lands shall be the secretary of the board. The board may select a vice chair from among its members. In the absence of the chair and vice chair at a meeting of the board, the members shall elect a chair pro tem. No action shall be taken by the board except by the agreement of at least four members. The department and the board shall maintain its principal office at the capital;

(5) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060. [2003 c 334 § 113.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.235 Records—Rules. (1) The board shall keep its records in the office of the commissioner, and shall keep a full and complete record of its proceedings relating to the appraisal of lands granted for educational purposes.

(2) Records for all forestlands acquired by the state and any lands owned by the state and designated as such by the department must be maintained by the department as provided in RCW 79.22.030.

(3) The board shall have the power, from time to time, to make and enforce rules for carrying out the provisions of this title relating to its duties not inconsistent with law. [2003 c 334 § 304; 1988 c 128 § 51; 1982 1st ex.s. c 21 § 149; 1927 c 255 § 13; RRS § 7797-13. Formerly RCW 79.01.052, 43.65.020.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.291 Board on geographic names—Created—Duties. The board on geographic names is created to establish a procedure for the retention and formal recognition of existing geographic names; to standardize the procedures for naming or renaming geographical features within the state of Washington; to identify one body as the responsible agency to coordinate this important activity between local, state, and federal agencies; to identify the responsible agency for the purpose of serving the public interest; to avoid the duplication of names for similar features whenever possible; and as far as possible, to retain the significance, spelling, and color of names associated with the early history of Washington.

The board on geographic names has the following duties:

(1) Establish the official names for the lakes, mountains, streams, places, towns, and other geographic features within the state and the spellings thereof except when a name is specified by law. For the purposes of this subsection, geographic features do not include human-made features or

administrative areas such as parks, game reserves, and dams, but do include human-made lakes;

(2) Assign names to lakes, mountains, streams, places, towns, and other geographic features in the state for which no generally accepted name has been in use;

(3) Cooperate with county commissions, state departments, agencies, the state legislature, and the United States board on geographic names to establish, change, or determine the appropriate names of lakes, mountains, streams, places, towns, and other geographic features for the purposes of eliminating, as far as possible, duplications of place names within the state;

(4) Serve as a state of Washington liaison with the United States board on geographic names;

(5) Periodically issue a list of names approved by the board on geographic names; and

(6) Establish policies to carry out the purposes of this section and RCW 43.30.292 through 43.30.294. [2011 c 355 § 2.]

43.30.292 Board on geographic names—Committee on geographic names—Committee membership. (1) The board on geographic names shall establish a committee on geographic names to assist the board in performing its duties and to provide broader contextual, public, and tribal participation in naming geographic features in the state. The committee shall report to the board on geographic names and shall consist of:

(a) The commissioner or representative;

(b) The state librarian or the librarian's designee;

(c) The director of the department of archaeology and historic preservation or the director's designee;

(d) A representative of the Washington state tribes, to be appointed by the commissioner from nominations made by Washington's recognized tribal governments. The tribal representative serves a three-year term; and

(e) Three members from the public to be appointed by the commissioner. Initial appointments of the public members appointed under this subsection shall be as follows: One member for a one-year term, one member for a two-year term, and one member for a three-year term. Thereafter, each public member shall be appointed for a three-year term.

(2) Each member of the committee shall continue in office until a successor is appointed. The commissioner shall serve as chair of the board. [2011 c 355 § 3.]

43.30.293 Committee on geographic names—Meetings—Rules—Reports and recommendations. (1) The committee on geographic names shall hold at least two meetings each year, and may hold special meetings as called by the chair or a majority of the members of the committee. All meetings must be open to the public.

(a) Notice of all committee meetings shall be as provided in RCW 42.30.080. The notice must include the names to be considered by the committee and the names to be adopted by the board on geographic names.

(b) Four committee members shall constitute a quorum.

(2) The committee shall establish rules for the conduct of its affairs and to carry out the duties of this section.

(3) The committee shall cooperate with the United States board on geographic names.

(4) The committee shall make reports and recommendations to the board on geographic names following each meeting of the committee. Recommendations regarding adoption of names may only be made following consideration at two committee meetings.

(5) In considering the names and spellings of geographic place names, the committee's recommendations to the board on geographic names may only be made after careful deliberation of all available information relating to such names, including the recommendations of the United States board on geographic names. [2011 c 355 § 4.]

43.30.294 Board on geographic names—Adoption of names—Publication in the Washington State Register—Official names. (1) The board on geographic names shall consider the recommendations made by the committee on geographic names for adoption of names. The board on geographic names must either adopt the name as recommended, or refer the matter back to the committee on geographic names for further review.

(2) All geographic names adopted by the board on geographic names shall be published in the Washington State Register.

(3) Whenever the board on geographic names has given a name to any lake, stream, place, or other geographic feature within the state, the name must be used in all maps, records, documents, and other publications issued by the state or any of its departments and political subdivisions, and that name is the official name of the geographic feature. [2011 c 355 § 5.]

43.30.295 Board on geographic names—Administrative services—Custodian of records. The department of natural resources shall provide secretarial and administrative services for the board on geographic names and shall serve as custodian of the records. [2011 c 355 § 6.]

PART 4
FUNDS

43.30.305 Natural resources equipment fund—Authorized—Purposes—Expenditure. A revolving fund in the custody of the state treasurer, to be known as the natural resources equipment fund, is hereby created to be expended by the department without appropriation solely for the purchase of equipment, machinery, and supplies for the use of the department and for the payment of the costs of repair and maintenance of such equipment, machinery, and supplies. During the 2007-2009 fiscal biennium the legislature may transfer such amounts as represent the excess balance of the fund to the state general fund. [2009 c 564 § 1809; 2005 c 518 § 928; 2003 c 334 § 120; 1965 c 8 § 43.30.280. Prior: 1963 c 141 § 1. Formerly RCW 43.30.280.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.315 Natural resources equipment fund—Reimbursement. The natural resources equipment fund shall be reimbursed by the department for all moneys expended from it. Reimbursement may be prorated over the useful life of the equipment, machinery, and supplies purchased by moneys from the fund. Reimbursement may be

made from moneys appropriated or otherwise available to the department for the purchase, repair, and maintenance of equipment, machinery, and supplies and shall be prorated on the basis of relative benefit to the programs. For the purpose of making reimbursement, all existing and hereafter acquired equipment, machinery, and supplies of the department shall be deemed to have been purchased from the natural resources equipment fund. [2003 c 334 § 121; 1965 c 8 § 43.30.290. Prior: 1963 c 141 § 2. Formerly RCW 43.30.290.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.325 Deposit of money and fees—Natural resources deposit fund—Repayments. (1) The department shall deposit daily all moneys and fees collected or received by the commissioner and the department in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful bidders under RCW 79.15.100 and 79.11.150 to the state treasurer for deposit under (b) of this subsection. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.11.150;

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW 79.64.110, 79.22.050, 79.64.040, and 79.15.520, except as provided in RCW 79.64.130;

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under (a) and (b) of this subsection the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer. [2017 c 248 § 4. Prior: 2003 c 334 § 125; 2003 c 313 § 9; 1981 2nd ex.s. c 4 § 1; 1965 c 8 § 43.85.130; prior: (i) 1911 c 51 § 1; RRS § 5555. (ii) 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part. Formerly RCW 43.85.130.]

Intent—2003 c 334: See note following RCW 79.02.010.

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

Moneys received and invested prior to December 1, 1981: "Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204, which have been invested prior to December 1, 1981, in time deposits, shall be subject to RCW 43.85.130 as each time deposit matures." [1981 2nd ex.s. c 4 § 2.]

Additional notes found at www.leg.wa.gov

43.30.340 Federal funds for management and protection of forests, forest and range lands. The department is authorized to receive funds from the federal government for

cooperative work in management and protection of forests and forest and range lands as may be authorized by any act of Congress which is now, or may hereafter be, adopted for such purposes. [2003 c 334 § 202; 1988 c 128 § 13; 1957 c 78 § 1. Formerly RCW 76.01.040.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.345 Federal funds for management and protection of forests, forest and range lands—Disbursement of funds. The department is authorized to disburse such funds, together with any funds which may be appropriated or contributed from any source for such purposes, on management and protection of forests and forest and range lands. [2003 c 334 § 203; 1988 c 128 § 14; 1957 c 78 § 2. Formerly RCW 76.01.050.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.360 Clarke-McNary fund. The department and Washington State University may each receive funds from the federal government in connection with cooperative work with the United States department of agriculture, authorized by sections 4 and 5 of the Clarke-McNary act of congress, approved June 7, 1924, providing for the procurement, protection, and distribution of forestry seed and plants for the purpose of establishing windbreaks, shelter belts, and farm wood lots and to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, and windbreaks; and are authorized to disburse such funds as needed. During the 2001-2003 fiscal biennium, the legislature may transfer from the Clarke-McNary fund to the state general fund such amounts as reflect the excess fund balance of the Clarke-McNary fund. [2002 c 371 § 908; 1986 c 100 § 46.]

Additional notes found at www.leg.wa.gov

43.30.370 Cooperative farm forestry funds. The department and Washington State University may each receive funds from the federal government for cooperative work, as authorized by the cooperative forest management act of congress, approved May 18, 1937, and as subsequently authorized by any amendments to or substitutions for that act, for all purposes authorized by those acts, and to disburse the funds in cooperation with the federal government in accordance therewith. [1986 c 100 § 47.]

43.30.385 Parkland trust revolving fund. (1) The parkland trust revolving fund is to be utilized by the department for the purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission, as directed by the legislature in order to maintain the land base of the affected trusts or under RCW 79.22.060 and to receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department.

(2)(a) Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in the parkland trust revolving fund.

(b) Except as otherwise provided in this subsection, the proceeds from real property transferred or disposed under

RCW 79.22.060 must be used solely to purchase replacement forestland, that must be actively managed as a working forest, within the same county as the property transferred or disposed. If the real property was transferred under RCW 79.22.060 (1)(c) and (2)(c) from within a county participating in the state forestland pool created under RCW 79.22.140, replacement forestland may be located within any county participating in the land pool.

(c) Disbursement from the parkland trust revolving fund to acquire replacement property and for operating and maintaining public use and recreation facilities shall be on the authorization of the department.

(d) The proceeds from the recreation access pass account created in RCW 79A.80.090 must be solely used for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department.

(3) In order to maintain an effective expenditure and revenue control, the parkland trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(4) The department is authorized to solicit and receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. The department may seek voluntary contributions from individuals and organizations for this purpose. Voluntary contributions will be deposited into the parkland trust revolving fund and used solely for the purpose of public use and recreation facilities operations and maintenance. Voluntary contributions are not considered a fee for use of these facilities. [2014 c 32 § 2; 2012 c 166 § 8. Prior: 2011 c 320 § 21; 2011 c 216 § 14; 2009 c 354 § 9; 2004 c 103 § 1; 2003 c 334 § 106; 2000 c 148 § 4; 1995 c 211 § 5. Formerly RCW 43.30.115.]

Findings—Intent—2012 c 166: See note following RCW 79.02.010.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Finding—Intent—2009 c 354: See note following RCW 84.33.140.

Intent—2003 c 334: See note following RCW 79.02.010.

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 79A.05.070.

Additional notes found at www.leg.wa.gov

PART 5 POWERS AND DUTIES—GENERAL

43.30.411 Department to exercise powers and duties—Indemnification of private parties. (1) The department shall exercise all of the powers, duties, and functions now vested in the commissioner of public lands and such powers, duties, and functions are hereby transferred to the department. However, nothing contained in this section shall effect the commissioner's ex officio membership on any committee provided by law.

(2)(a) Except as provided in (b) of this subsection, and subject to the limitations of RCW 4.24.115, the department, in the exercise of any of its powers, may include in any authorized contract a provision for indemnifying the other contracting party against loss or damages.

(b) When executing a right-of-way or easement contract over private land that involves forest management activities, the department shall indemnify the private landowner if the

landowner does not receive a direct benefit from the contract. [2003 c 334 § 108; 2003 c 312 § 1; 1965 c 8 § 43.30.130. Prior: 1957 c 38 § 13. Formerly RCW 43.30.130.]

Reviser's note: This section was amended by 2003 c 312 § 1 and by 2003 c 334 § 108, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.421 Administrator. The administrator shall have responsibility for performance of all the powers, duties, and functions of the department except those specifically assigned to the board. In the performance of these powers, duties, and functions, the administrator shall conform to policies established by the board, and may employ and fix the compensation of such personnel as may be required to perform the duties of this office. [2003 c 334 § 114; 1965 c 8 § 43.30.160. Prior: 1957 c 38 § 16. Formerly RCW 43.30.160.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.430 Supervisor. The supervisor shall:

(1) Be charged with the direct supervision of the department's activities as delegated by the administrator;

(2) Perform his or her duties in conformance with the policies established by the board;

(3) Organize the department, with approval of the administrator, into such subordinate divisions as the supervisor deems appropriate for the conduct of its operations;

(4) Employ and fix the compensation of such technical, clerical, and other personnel as may be required to carry on activities under his or her supervision;

(5) Delegate by order any assigned powers, duties, and functions to one or more deputies or assistants, as desired;

(6) Furnish before entering upon the duties of this position a surety bond payable to the state in such amount as may be determined by the board, conditioned for the faithful performance of duties and for accounting of all moneys and property of the state that may come into possession of or under the control of this position. [2003 c 334 § 115; 1965 c 8 § 43.30.170. Prior: 1957 c 38 § 17. Formerly RCW 43.30.170.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.440 Oaths may be administered by supervisor and deputies. The supervisor and duly authorized deputies may administer oaths. [2003 c 334 § 116; 1965 c 8 § 43.30.180. Prior: 1957 c 38 § 18. Formerly RCW 43.30.180.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.450 Right of entry in course of duty by representatives of department. Any authorized assistants, employees, agents, appointees, or representatives of the department may, in the course of their inspection and enforcement duties as provided for in chapters 76.04, 76.06, 76.09, and 76.36 RCW, enter upon any lands, real estate, waters, or premises except the dwelling house or appurtenant buildings in this state whether public or private and remain thereon while performing such duties. Similar entry by the department may be made for the purpose of making examinations, locations, surveys, and/or appraisals of all lands under the management and jurisdiction of the department; or for

making examinations, appraisals and, after five days' written notice to the landowner, making surveys for the purpose of possible acquisition of property to provide public access to public lands. In no event other than an emergency such as firefighting shall motor vehicles be used to cross a field customarily cultivated, without prior consent of the owner. None of the entries herein provided for shall constitute trespass, but nothing contained herein shall limit or diminish any liability which would otherwise exist as a result of the acts or omissions of the department or its representatives. [2003 c 334 § 204; 2000 c 11 § 1; 1983 c 3 § 194; 1971 ex.s. c 49 § 1; 1963 c 100 § 1. Formerly RCW 76.01.060.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.460 Department to participate in and administer federal Safe Drinking Water Act in conjunction with other departments. See RCW 43.21A.445.

43.30.480 Watershed restoration projects—Permit processing. A permit required by the department for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. [1995 c 378 § 13. Formerly RCW 43.30.410.]

43.30.490 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit or lease applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, establishment of development units and approval or establishment of pooling agreements under chapter 78.52 RCW, including necessary technical studies, permit or lease processing, and monitoring for permit compliance.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

- (a) The estimated number of weeks for initial review of the permit application;
- (b) The estimated number of revision cycles;
- (c) The estimated number of weeks for review of subsequent revision submittals;
- (d) The estimated number of billable hours of employee time;
- (e) The rate per hour; and
- (f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit or lease applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant or proponent shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees, to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit or lease. The

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department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits or leases, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 9. Prior: 2007 c 188 § 1; 2007 c 94 § 11; 2003 c 70 § 2; 2000 c 251 § 3. Formerly RCW 43.30.420.]

Intent—Captions not law—Effective date—2000 c 251: See notes following RCW 43.21A.690.

Additional notes found at www.leg.wa.gov

43.30.510 Administrator may designate substitute for member of board, commission, etc. When any officer, member, or employee of an agency abolished by provisions of this chapter is, under provisions of existing law, designated as a member ex officio of another board, commission, committee, or other agency, and no provision is made in this chapter with respect to a substitute, the administrator shall designate the officer or other person to serve hereafter in that capacity. [1965 c 8 § 43.30.210. Prior: 1957 c 38 § 21. Formerly RCW 43.30.210.]

43.30.520 Property transactions, restrictive conveyances, highway purpose—Existing law to continue. Nothing in this chapter shall be interpreted as changing existing law with respect to:

(1) Property given to a state agency on restrictive conveyance with provision for reversion to the grantor or for the vesting of title in another if and when such property is not used by the agency concerned for the stipulated purposes;

(2) Land or other property acquired by any state agency for highway purposes. [1965 c 8 § 43.30.250. Prior: 1957 c 38 § 25. Formerly RCW 43.30.250.]

43.30.530 Real property—Services and facilities available to other state agencies, cost. Upon request by any state agency vested by law with the authority to acquire or manage real property, the department shall make available to such agency the facilities and services of the department with respect to such acquisition or management, upon condition that such agency reimburse the department for the costs of such services. [2003 c 334 § 117; 1965 c 8 § 43.30.260. Prior: 1957 c 38 § 26. Formerly RCW 43.30.260.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.540 Acting as harbor line commission. The board acting as the harbor line commission shall keep a full and complete record of its proceedings relating to the establishment of harbor lines and the determination of harbor areas. The board shall have the power from time to time to make and enforce rules for the carrying out of the provisions of chapters 79.105 through 79.140 RCW relating to its duties not inconsistent with law. [2005 c 155 § 103; 1982 1st ex.s. c 21 § 14. Formerly RCW 79.90.080.]

Intent—2005 c 155: See RCW 79.105.001.

43.30.545 Washington conservation corps. The department shall cooperate, when appropriate, as a partner in the Washington conservation corps established in chapter 43.220 RCW. [2011 c 20 § 12.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

Intent—Application—2011 c 20: See RCW 43.220.905.

43.30.550 Department to make examples of forest practices applications and resulting approvals available to the public. (1) By December 31, 2013, the department must make examples of complete, high quality forest practices applications and the resulting approvals readily available to the public on its internet site, as well as the internet site of the office of regulatory assistance established in RCW 43.42.010. The department must maximize assistance to the public and interested parties by seeking to make readily available examples from forest practices that generate significant permitting activity or frequent questions.

(2) The department must regularly review and update the examples required to be made available on the internet under subsection (1) of this section.

(3) The department must obtain the written permission of an applicant before making publicly available that applicant's application or approval under this section and must work cooperatively with the applicant to ensure that no personal or proprietary information is made available. [2012 1st sp.s. c 1 § 208.]

Finding—Intent—Limitation—Jurisdiction/authority of Indian tribe under act—2012 1st sp.s. c 1: See notes following RCW 77.55.011.

Authority of department of fish and wildlife under act—2012 1st sp.s. c 1: See note following RCW 76.09.040.

43.30.555 Geoduck harvest safety committee. (1) The department shall establish a geoduck harvest safety committee. The geoduck harvest safety committee consists of one representative from the department, one representative from the department's geoduck diver advisory committee, one representative from an organization representing the interests of geoduck harvesters, and one representative from an organization representing the interests of geoduck divers. Each representative must be appointed by the administrator.

(2) The geoduck harvest safety committee must meet at least quarterly. By December 1, 2013, the committee must submit a recommendation to the department regarding the establishment of a geoduck diver safety program and safety requirements for geoduck divers licensed under RCW 77.65.410.

(3) Upon the establishment of the geoduck diver safety program under RCW 43.30.560, the geoduck harvest safety committee must continue to review and evaluate the safety

program's success and effectiveness and recommend to the department appropriate changes to improve the geoduck diver safety program. [2013 c 204 § 4.]

43.30.560 Geoduck diver safety program—Rule-making authority—Limitation on civil suit or action. (1) By December 1, 2014, the department must, by rule, create a geoduck diver safety program and establish safety requirements for geoduck divers licensed under RCW 77.65.410. The department must adopt rules based on the recommendation of the geoduck harvest safety committee established in RCW 43.30.555.

(2) The department may adopt, amend, or repeal rules as needed to ensure the success and effectiveness of the geoduck diver safety program created under subsection (1) of this section. The department must consider the recommendations provided by the geoduck harvest safety committee under RCW 43.30.555(3).

(3) The department may not adopt rules in conflict with commercial diving safety standards and regulations promulgated and implemented by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 (84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq.).

(4) A civil suit or action may not be commenced or prosecuted against the administrator, department, or any other government officer or entity by reason of any actions taken in connection with the adoption or enforcement of the geoduck diver safety program and safety requirements established under subsections (1) and (2) of this section. The state of Washington does not waive its sovereign immunity with respect to any actions taken by the department under this section. [2013 c 204 § 5.]

43.30.565 Transfer of ownership of department-owned vessel—Review of vessel's physical condition. (1) Prior to transferring ownership of a department-owned vessel, the department shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(2) If the department determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the department may: (a) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (b) permanently dispose of the vessel by landfill, deconstruction, or other related method.

(3) Vessels taken into custody under chapter 79.100 RCW are not subject to this section or RCW 43.30.570. [2013 c 291 § 7.]

43.30.570 Transfer of ownership of department-owned vessel—Further requirements. (1) Following the inspection required under RCW 43.30.565 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The department may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the department is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550. [2021 c 65 § 42; 2013 c 291 § 8.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

43.30.575 Wildfire areas—Funding wildfire risk reduction in certain counties. Subject to the availability of amounts appropriated for this specific purpose, in order to prevent homelessness in any county located east of the crest of the Cascade mountain range that shares a common border with Canada and has a population of one hundred thousand or less, the department shall, to strengthen the local capacity for controlling risk to life and property that may result from wildfires, administer to these counties, funding for radio communication equipment; and fire protection service providers within these counties to provide residential wildfire risk reduction activities, including education and outreach, technical assistance, fuel mitigation and other residential risk reduction measures. For the purposes of this section, fire protection service providers include fire departments, fire districts, emergency management services, and regional fire protection service authorities. The department must prioritize funding to counties authorized in this section serving a disproportionately higher percentage of low-income residents, as defined in RCW 84.36.042, that are located in areas of higher wildfire risk, and whose fire protection service providers have a shortage of reliable equipment and resources. [2017 c 280 § 1.]

Effective date—2017 c 280: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 10, 2017]." [2017 c 280 § 3.]

43.30.580 Wildland urban interface areas—Grant program. (1) The department shall, to the extent practical within existing resources, establish a program of technical assistance to counties, cities, and towns for the development of findings of fact and maps establishing the wildland urban interface areas of jurisdictions in accordance with the

requirements of the International Wildland Urban Interface Code as adopted by reference in RCW 19.27.560.

(2) The department shall develop and administer a grant program, subject to funding provided for this purpose, to provide direct financial assistance to counties, cities, and towns for the development of findings of fact and maps establishing wildland urban interface areas. Applications for grant funds must be submitted by counties, cities, and towns in accordance with regulations adopted by the department. The department is authorized to make and administer grants on the basis of applications, within appropriations authorized by the legislature, to any county, city, or town for the purpose of developing findings of fact and maps establishing wildland urban interface areas. [2018 c 189 § 3.]

43.30.582 Marbled murrelet conservation strategy—Reports. (Contingent expiration date.) (1)(a) By December 1, 2018, and each December 1st until the year after the United States fish and wildlife service issues an incidental take permit on the state trust land habitat conservation plan for the long-term conservation strategy for the marbled murrelet, the department must provide a report to the legislature, consistent with RCW 43.01.036, as required in this section.

(b) No fewer than ninety days before submitting the report to the legislature as described in this section, the department must first submit a draft of the report for review and comment to the chair and ranking member of the committees of the house of representatives and senate with jurisdiction over state trust lands management.

(c) Each regular legislative session, the standing committee with jurisdiction over state trust land management from the house of representatives and senate must each hold a meeting, which may be held as a joint meeting, on the report required in this section and the habitat conservation plan update process.

(2) The report required in this section must annually include an economic analysis of potential losses or gains from any proposed marbled murrelet long-term conservation strategy selected by the board of natural resources, forwarded to or approved by the United States fish and wildlife service, and subsequently adopted by the board.

(3) The initial report required under this section must also include recommendations relating to the following, to be updated as appropriate in subsequent reports:

(a) Actions that support maintaining or increasing family-wage timber and related jobs in the affected rural communities, taking into account, as appropriate, the role of other market factors;

(b) Strategies to ensure no net loss of revenues to the trust beneficiaries due to the implementation of additional marbled murrelet conservation measures;

(c) Additional means of financing county services; and

(d) Additional reasonable, incentive-based, nonregulatory conservation measures for the marbled murrelet that also provide economic benefits to rural communities. [2018 c 255 § 2.]

Contingent expiration date—2018 c 255 §§ 2 and 3: "(1) Sections 2 and 3 of this act expire at the end of the calendar year following the issuance by the United States fish and wildlife service of an incidental take permit on the long-term conservation strategy for the marbled murrelet under the state trust lands habitat conservation plan and subsequent adoption by the board of natural resources.

(2) The department of natural resources must notify the chief clerk of the house of representatives, the secretary of the senate, and the office of the code reviser when the conditional expiration date of sections 1 and 2 [2 and 3] of this act is satisfied." [2018 c 255 § 4.]

Findings—Intent—2018 c 255: "(1) The legislature finds that the 1997 state trust lands habitat conservation plan and the proposed amendment related to the conservation of the marbled murrelet, which provide certainty for beneficiaries of affected state lands and state forestlands, present an important and ongoing issue for the people of the state of Washington. The legislature further finds that complying with the endangered species act is a necessary aspect of managing state trust lands. The lands that are the subject of the 1997 habitat conservation plan are held by the state in trust for the trust beneficiaries, and the proposed amendment to the 1997 state trust lands habitat conservation plan presents an opportunity for the legislature to engage in its role as a fiduciary of those lands.

(2) The legislature intends that the process set forth in this act will serve as a model for future processes in the event that there are any subsequent amendments to the 1997 state trust lands habitat conservation plan beyond those envisioned in this act." [2018 c 255 § 1.]

43.30.583 Marbled murrelet advisory committee. (Contingent expiration date.) (1) To assist the department in developing and providing the report to the legislature required in RCW 43.30.582, the commissioner must appoint a marbled murrelet advisory committee.

(2) The marbled murrelet advisory committee may include one or more representatives from the following categories:

- (a) State trust lands beneficiaries;
- (b) Impacted state forestlands beneficiaries, including counties;
- (c) Junior taxing districts;
- (d) Environmental organizations;
- (e) Local governments or an association representing local governments;
- (f) Milling interests or an association representing milling interests;
- (g) Private forestland owners or a statewide association representing private forestland owners; and
- (h) Local public interest groups.

(3) The advisory committee required under this section may consult with relevant state and federal agencies and tribes. [2018 c 255 § 3.]

Contingent expiration date—2018 c 255 §§ 2 and 3: See note following RCW 43.30.582.

Findings—Intent—2018 c 255: See note following RCW 43.30.582.

PART 6

DUTIES AND POWERS—MINING AND GEOLOGY

43.30.600 State geological survey. The department shall assume full charge and supervision of the state geological survey and perform such other duties as may be prescribed by law. [2003 c 334 § 107; 1988 c 127 § 3; 1965 c 8 § 43.21.050. Prior: 1921 c 7 § 69; RRS § 10827. Formerly RCW 43.30.125, 43.21.050.]

Intent—2003 c 334: See note following RCW 79.02.010.

Mining survey reports, forwarding to: RCW 78.06.030.

Provisions relating to geological survey: Chapter 43.92 RCW, RCW 43.27A.130.

43.30.610 Mining. The department shall:

- (1) Collect, compile, publish, and disseminate statistics and information relating to mining, milling, and metallurgy;

- (2) Make special studies of the mineral resources and industries of the state;

(3) Collect and assemble an exhibit of mineral specimens, both metallic and nonmetallic, especially those of economic and commercial importance; such collection to constitute the museum of mining and mineral development;

(4) Collect and assemble a library pertaining to mining, milling, and metallurgy of books, reports, drawings, tracings, and maps and other information relating to the mineral industry and the arts and sciences of mining and metallurgy;

(5) Make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes;

(6) Issue bulletins and reports with illustrations and maps with detailed description of the natural mineral resources of the state;

(7) Preserve and maintain such collections and library open to the public for reference and examination and maintain a bureau of general information concerning the mineral and mining industry of the state, and issue from time to time at cost of publication and distribution such bulletins as may be deemed advisable relating to the statistics and technology of minerals and the mining industry;

(8) Make determinative examinations of ores and minerals, and consider other scientific and economical problems relating to mining and metallurgy;

(9) Cooperate with all departments of the state government, state educational institutions, the United States geological survey, and the United States bureau of mines. All departments of the state government and educational institutions shall render full cooperation to the department in compiling useful and scientific information relating to the mineral industry within and without the state, without cost to the department. [2003 c 334 § 109; 1988 c 127 § 4; 1965 c 8 § 43.21.070. Prior: 1935 c 142 § 2; RRS § 8614-2. Formerly RCW 43.30.138, 43.21.070.]

Intent—2003 c 334: See note following RCW 79.02.010.

Mining survey reports forwarded to: RCW 78.06.030.

43.30.630 Sealing of open holes and mine shafts. The department shall work with federal officials and private mine owners to ensure the prompt sealing of open holes and mine shafts that constitute a threat to safety. [2003 c 334 § 101; 1985 c 459 § 7. Formerly RCW 43.12.025.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.640 Mine owners—Maps of property surface and underground workings—Filing. The owner of each mine shall make a map of the surface of the property. The owner of each active mine shall make a map of the underground workings. All maps shall be filed with the department. The department shall establish by rule the scale and contents required for the maps. [2003 c 334 § 102; 1985 c 459 § 8. Formerly RCW 43.12.035.]

Intent—2003 c 334: See note following RCW 79.02.010.

Additional notes found at www.leg.wa.gov

43.30.650 Gifts and bequests relating to mining. The department may receive on behalf of the state, for the benefit

of mining and mineral development, gifts, bequests, devises, and legacies of real or personal property and use them in accordance with the wishes of the donors and manage, use, and dispose of them for the best interests of mining and mineral development. [2003 c 334 § 110; 1988 c 127 § 5; 1965 c 8 § 43.21.080. Prior: 1935 c 142 § 3; RRS § 8614-3. Formerly RCW 43.30.141, 43.21.080.]

Intent—2003 c 334: See note following RCW 79.02.010.

43.30.660 Collection of minerals for exhibition. The department may, from time to time, prepare special collections of ores and minerals representative of the mineral industry of the state to be displayed or used at any world fair, exposition, mining congress, or state exhibition, in order to promote information relating to the mineral wealth of the state. [2003 c 334 § 111; 1988 c 127 § 6; 1965 c 8 § 43.21.090. Prior: 1935 c 142 § 4; RRS § 8614-4. Formerly RCW 43.30.145, 43.21.090.]

Intent—2003 c 334: See note following RCW 79.02.010.

PART 7

DUTIES AND POWERS—FORESTED LANDS

43.30.700 Powers of department—Forested lands.

(1) The department may:

(a) Inquire into the production, quality, and quantity of second growth timber to ascertain conditions for reforestation; and

(b) Publish information pertaining to forestry and forest products which it considers of benefit to the people of the state.

(2) The department shall:

(a) Collect information through investigation by its employees, on forestlands owned by the state, including:

(i) Condition of the lands;

(ii) Forest fire damage;

(iii) Illegal cutting, trespassing, or thefts; and

(iv) The number of acres and the value of the timber that is cut and removed each year, to determine which state lands are valuable chiefly for growing timber;

(b) Prepare maps of each timbered county showing state land therein; and

(c) Protect forested public land, as defined in RCW 79.02.010, as much as is practical and feasible from fire, trespass, theft, and the illegal cutting of timber.

(3) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in:

(a) Forest surveys;

(b) Forest studies;

(c) Forest products studies; and

(d) Preparation of plans for the protection, management, and replacement of trees, wood lots, and timber tracts. [2004 c 199 § 101; 1986 c 100 § 50. Formerly RCW 43.30.135.]

Additional notes found at www.leg.wa.gov

43.30.710 Sale or exchange of tree seedling stock and tree seed—Provision of stock or seed to local governments

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or nonprofit organizations. The department is authorized to sell to or exchange with persons intending to restock forest areas, tree seedling stock and tree seed produced at the state nursery.

The department may provide at cost, stock or seed to local governments or nonprofit organizations for urban tree planting programs consistent with the *community and urban forestry program. [1993 c 204 § 7; 1988 c 128 § 35; 1947 c 67 § 1; Rem. Supp. 1947 § 5823-40. Formerly RCW 76.12.160.]

***Reviser's note:** Chapter 209, Laws of 2021 changed the name of the program in chapter 76.15 RCW from "community and urban forestry" to "urban forest management plan."

Findings—1993 c 204: See note following RCW 35.92.390.

43.30.720 Use of proceeds specified. All receipts from the sale of stock or seed shall be deposited in a state forest nursery revolving fund to be maintained by the department, which is hereby authorized to use all money in said fund for the maintenance of the state tree nursery or the planting of denuded state owned lands.

During the 2011-2013 fiscal biennium, the legislature may transfer from the state forest nursery revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund. [2012 2nd sp.s. c 7 § 918; 2003 1st sp.s. c 25 § 938; 1988 c 128 § 36; 1947 c 67 § 2; RRS § 5823-41. Formerly RCW 76.12.170.]

Effective date—2012 2nd sp.s. c 7: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

43.30.800 Olympic natural resources center—Finding, intent. The legislature finds that conflicts over the use of natural resources essential to the state's residents, especially forest and ocean resources, have increased dramatically. There are growing demands that these resources be fully utilized for their commodity values, while simultaneously there are increased demands for protection and preservation of these same resources. While these competing demands are most often viewed as mutually exclusive, recent research has suggested that commodity production and ecological values can be integrated. It is the intent of the legislature to foster and support the research and education necessary to provide sound scientific information on which to base sustainable forest and marine industries, and at the same time sustain the ecological values demanded by much of the public. [1991 c 316 § 1. Formerly RCW 76.12.205.]

Additional notes found at www.leg.wa.gov

43.30.810 Olympic natural resources center—Purpose, programs. (1) The Olympic natural resources center is hereby created at the University of Washington in the school of environmental and forest sciences and the school of aquatic and fishery sciences.

(2) The Olympic natural resources center shall maintain facilities and programs in the western portion of the Olympic Peninsula. The purpose of the center is to demonstrate innovative management methods which successfully integrate environmental, energy, marine, and economic interests into pragmatic management of forest and ocean resources. The center shall combine research and educational opportunities with experimental forestry, oceans management, and tradi-

tional management knowledge into an overall program which demonstrates that management based on sound economic principles is made superior when combined with new methods of management based on ecological principles. The programs developed by the center shall include the following:

(a) Research and education on a broad range of ocean resources problems and opportunities in the region, such as estuarine processes, ocean and coastal management, renewable energy production, offshore development, fisheries and shellfish enhancement, and coastal business development, tourism, and recreation. In developing this component of the center's program, the center shall collaborate with coastal educational institutions such as Grays Harbor community college and Peninsula community college;

(b) Research and education on forest resources management issues on the landscape, ecosystem, or regional level, including issues that cross legal and administrative boundaries;

(c) Research and education that broadly integrates marine and terrestrial issues, including interactions of marine, aquatic, and terrestrial ecosystems, and that identifies options and opportunities to integrate the production of commodities with the preservation of ecological values. Where appropriate, programs shall address issues and opportunities that cross legal and administrative boundaries;

(d) Research and education on natural resources and their social and economic implications, and on alternative economic and social bases for sustainable, healthy, resource-based communities;

(e) Educational opportunities such as workshops, short courses, and continuing education for resource professionals, policy forums, information exchanges including international exchanges where appropriate, conferences, student research, and public education; and

(f) Creation of a neutral forum where parties with diverse interests are encouraged to address and resolve their conflicts. [2012 c 243 § 2; 1991 c 316 § 2; 1989 c 424 § 4. Formerly RCW 76.12.210.]

Additional notes found at www.leg.wa.gov

43.30.820 Olympic natural resources center—Administration—Policy advisory board. (1) The Olympic natural resources center shall operate under the authority of the board of regents of the University of Washington. It shall be administered by a director appointed jointly by the directors of the school of environmental and forest sciences and the school of aquatic and fishery sciences. The director of the center shall be a member of the faculty of one of those schools. The director of the center shall appoint and maintain a scientific or technical committee, and other committees as necessary, to advise the director on the efficiency, effectiveness, and quality of the center's activities.

(2) The governor must appoint a policy advisory board consisting of eleven members, who serve at the pleasure of the governor, to advise the directors of the school of environmental and forest sciences, the school of aquatic and fishery sciences, and the Olympic natural resources center on policies for the center that are consistent with its purposes. Membership on the policy advisory board must broadly represent the various interests concerned with the purposes of the center, including the Washington state department of natural

resources and state and federal government, environmental, local community, timber industry, and tribal interests. Policy advisory board members shall serve four-year terms and are eligible for reappointment.

(3) Service on boards and committees of the Olympic natural resources center is without compensation but actual travel expenses incurred in connection with service to the center may be reimbursed from appropriated funds in accordance with RCW 43.03.050 and 43.03.060. [2012 c 243 § 1; 2010 1st sp.s. c 7 § 74; 1991 c 316 § 3. Formerly RCW 76.12.220.]

Additional notes found at www.leg.wa.gov

43.30.830 Olympic natural resources center—Funding—Contracts. The center may solicit gifts, grants, conveyances, bequests, and devises, whether real or personal property, or both, in trust or otherwise, to be directed to the center for carrying out the purposes of the center. The center may solicit contracts for work, financial and in-kind contributions, and support from private industries, interest groups, federal and state sources, and other sources. It may also use separately appropriated funds of the University of Washington for the center's activities. [1991 c 316 § 4. Formerly RCW 76.12.230.]

Additional notes found at www.leg.wa.gov

43.30.835 Forest biomass demonstration projects. (1) The department may develop and implement forest biomass energy demonstration projects, one east of the crest of the Cascade mountains and one west of the crest of the Cascade mountains. The demonstration projects must be designed to:

(a) Reveal the utility of Washington's public and private forest biomass feedstock;

(b) Create green jobs and generate renewable energy;

(c) Generate revenues or improve asset values for beneficiaries of state lands and state forestlands;

(d) Improve forest health, reduce pollution, and restore ecological function; and

(e) Avoid interfering with the current working area for forest biomass collection surrounding an existing fixed location biomass energy production site.

(2) To develop and implement the forest biomass energy demonstration projects, the department may form forest biomass energy partnerships or cooperatives.

(3) The forest biomass energy partnerships or cooperatives are encouraged to be public-private partnerships focused on convening the entities necessary to grow, harvest, process, transport, and utilize forest biomass to generate renewable energy. Particular focus must be given to recruiting and employing emerging technologies that can locally process forest biomass feedstock to create local green jobs and reduce transportation costs.

(4) The forest biomass energy partnerships or cooperatives may include, but are not limited to: Entrepreneurs or organizations developing and operating emerging technology to process forest biomass; industrial electricity producers; contractors capable of providing the local labor needed to collect, process, and transport forest biomass feedstocks; tribes; federal land management agencies; county, city, and other local governments; the *department of community,

trade, and economic development; state trust land managers; an organization dedicated to protecting and strengthening the jobs, rights, and working conditions of Washington's working families; accredited research institution representatives; an industrial timberland manager; a small forestland owner; and a not-for-profit conservation organization. [2009 c 163 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—2009 c 163: "The legislature finds that forest biomass is an abundant and renewable by-product of Washington's forestland management. Forest biomass can be utilized to generate clean renewable energy.

In some Washington forests, residual forest biomass is burned on-site or left to decompose. The lack of forest products markets in some areas means that standing forest biomass removed for forest health and wildfire risk reduction treatments must occur at substantial cost. Utilizing forest biomass to generate energy can reduce the greenhouse gases emitted by burning forest biomass.

The legislature further finds that the emerging forest biomass energy economy is challenged by: Not having a reliable supply of predictably priced forest biomass feedstock; shipping and processing costs; insufficient forest biomass processing infrastructure; and feedstock demand.

The legislature finds that making use of the state's forest biomass resources for energy production may generate new revenues or increase asset values of state lands and state forestlands, protect forestland of all ownerships from severe forest health problems, stimulate Washington's economy, create green jobs, and reduce Washington's dependence on foreign oil.

It is the intent of the legislature to support forest biomass demonstration projects that employ promising processing technologies. The demonstration projects must emphasize public and private forest biomass feedstocks that are generated as by-products of current forest practices. The project must reveal ways to overcome the current impediments to the developing forest biomass energy economy, and ways to realize ecologically sustainable outcomes from that development." [2009 c 163 § 1.]

43.30.840 Grants or financing. For the purposes of implementing chapter 163, Law of 2009, the department may seek grants or financing from the federal government, industry, or philanthropists. [2009 c 163 § 4.]

Findings—Intent—2009 c 163: See note following RCW 43.30.835.

Chapter 43.31 RCW

DEPARTMENT OF COMMERCE

(Formerly: Department of community, trade, and economic development)

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- 43.31.125 Advisory groups.
- 43.31.205 Hanford reservation—Promotion of sublease for nuclear-related industry.
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- 43.31.581 Early learning facilities grant and loan program—Committee of facilities experts—Advice regarding prioritization methodology—Liability insurance.
- 43.31.583 Early learning facilities grant and loan program—Report.
- 43.31.605 Landlord mitigation program—Department to administer and have rule-making authority—Claims—Eligibility for reimbursement—Review—Damages—Inspection—Landlords prohibited from certain acts—Denial of reimbursement—Department to establish website—Liability—Report, recommendations.
- 43.31.615 Landlord mitigation program account.
- 43.31.625 Industrial waste coordination program.
- 43.31.635 Industrial symbiosis grant program.
- 43.31.859 Rural development council—Successor organization—Funding.
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- 43.31.980 Impact fee annual report.

- Chief assistants:* RCW 43.17.040.
- Cities and towns, annexation, director member of review board:* RCW 35.13.171.
- Department created:* Chapter 43.330 RCW.
- Department to arrange provision of information on environmental laws:* RCW 43.21A.515.
- Development credit corporations:* Chapter 31.20 RCW.
- Diverse cultures and languages encouraged—State policy:* RCW 1.20.100.
- Industrial development revenue bonds:* Chapter 39.84 RCW.
- Joint committee on energy supply and energy conservation:* Chapter 44.39 RCW.
- Mobile home park closure or conversion—Relocation assistance information for tenants:* RCW 59.21.030.
- Nuclear energy, thermal, electric generating power facilities, joint development:* Chapter 54.44 RCW.
- Oath:* RCW 43.17.030.
- Occupational forecast—Agency consultation:* RCW 50.38.030.
- Office maintained at state capital:* RCW 43.17.050.
- Projects of statewide significance—Assignment of project facilitator or coordinator:* RCW 43.157.030.
- Public records:* Chapter 42.56 RCW.
- Regulatory fairness act:* Chapter 19.85 RCW.
- Rules and regulations:* RCW 43.17.060.
- Steam generating facility, powers of director:* RCW 43.21A.612.

43.31.0925 Business assistance center—Minority and women business development office. There is established within the department's *business assistance center the minority and women business development office. This office shall provide business-related assistance to minorities

and women as well as serve as an outreach program to increase minority and women-owned businesses' awareness and use of existing business assistance services. [1993 c 512 § 7.]

***Reviser's note:** The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

43.31.125 Advisory groups. The director may establish such advisory groups as in the director's discretion are necessary to carry out the purposes of this chapter. Members of and vacancies in such advisory groups shall be filled by appointment by the director. Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1985 c 466 § 16.]

Additional notes found at www.leg.wa.gov

43.31.205 Hanford reservation—Promotion of sublease for nuclear-related industry. In an effort to enhance the economy of the Tri-Cities area, the *department of community, trade, and economic development is directed to promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington, and the opportunity of subleasing the land to entities for nuclear-related industry, in agreement with the terms of the lease. When promoting the existence of the lease, the department shall work in cooperation with any associate development organization located in or near the Tri-Cities area. [1993 c 280 § 41; 1992 c 228 § 2; 1990 c 281 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1992 c 228: "The legislature finds that the ninety-nine-year lease of one thousand acres of land by the state from the federal government requires that the state use any rent moneys from subleasing the land for the development of the leased land and nuclear-related industries in the Tri-Cities area. The legislature further finds that the new emphasis on waste cleanup at Hanford and the new technologies needed for environmental restoration warrant a renewed effort to promote development of the leased land and nuclear-related industries in the Tri-Cities area." [1992 c 228 § 1.]

Legislative findings—1990 c 281: "The legislature finds that the one thousand acres of land leased from the federal government to the state of Washington on the Hanford reservation constitutes an unmatched resource for development of high-technology industry, nuclear medicine research, and research into new waste immobilization and reduction techniques. The legislature further finds that continued diversification of the Tri-Cities economy will help stabilize and improve the Tri-Cities economy, and that this effort can be aided by emphasizing the resources of local expertise and nearby facilities." [1990 c 281 § 1.]

Additional notes found at www.leg.wa.gov

43.31.215 Hanford reservation—Tri-Cities area—Emphasize workforce and facilities. When the department implements programs intended to attract or maintain industrial or high-technology investments in the state, the department shall, to the extent possible, emphasize the following:

(1) The highly skilled and trained workforce in the Tri-Cities area;

(2) The world-class research facilities in the area, including the fast flux test facility and the Pacific Northwest laboratories;

(3) The existence of the one thousand acres leased by the state from the federal government for the purpose of nuclear-related industries; and

(4) The ability for high-technology and medical industries to safely dispose of low-level radioactive waste at the Hanford commercial low-level waste disposal facility. [1990 c 281 § 3.]

Legislative findings—1990 c 281: See note following RCW 43.31.205.

43.31.422 Hanford area economic investment fund. The Hanford area economic investment fund is established in the custody of the state treasurer. Moneys in the fund shall only be used for reasonable assistant attorney general costs in support of the committee or pursuant to the decisions of the committee created in RCW 43.31.425 for Hanford area revolving loan funds, Hanford area infrastructure projects, or other Hanford area economic development and diversification projects, but may not be used for government or non-profit organization operating expenses. Up to five percent of moneys in the fund may be used for program administration. For the purpose of this chapter "Hanford area" means Benton and Franklin counties. The director of commerce or the director's designee shall authorize disbursements from the fund with the advice of the committee created in RCW 43.31.425. The fund is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements. The legislature intends to establish similar economic investment funds for areas that develop low-level radioactive waste disposal facilities. [2011 1st sp.s. c 21 § 42; 2004 c 77 § 1; 1998 c 76 § 1; 1993 c 280 § 44; 1991 c 272 § 19.]

Surcharge on waste generators: RCW 70A.384.110, 70A.384.120, and 70A.384.130.

Additional notes found at www.leg.wa.gov

43.31.425 Hanford area economic investment fund advisory committee. The Hanford area economic investment fund advisory committee is hereby established to advise the director of the department of commerce.

(1) The committee shall have eleven members. The director of the department of commerce shall appoint the members, in consultation with Hanford area elected officials, subject to the following requirements:

(a) All members shall either reside or be employed within the Hanford area.

(b) The committee shall have a balanced membership representing one member each from the elected leadership of Benton county, Franklin county, the city of Richland, the city of Kennewick, the city of Pasco, a Hanford area port district, the labor community, and four members from the Hanford area business and financial community.

(c) Careful consideration shall be given to assure minority representation on the committee.

(2) Each member appointed by the director of the department of commerce shall serve a term of three years. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be

removed by the director of the department of commerce for cause.

(3) The director of the department of commerce shall designate a member of the committee as its chairperson. The committee may elect such other officers as it deems appropriate. Six members of the committee constitute a quorum and six affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others. [2011 1st sp.s. c 21 § 41; 1998 c 76 § 2; 1991 c 272 § 20.]

Additional notes found at www.leg.wa.gov

43.31.428 Hanford area economic investment fund committee—Powers. The *Hanford area economic investment fund committee created under RCW 43.31.425 may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Utilize the services of other governmental agencies;

(3) Accept from any federal or state agency loans or grants for the purposes of funding Hanford area revolving loan funds, Hanford area infrastructure projects, or Hanford area economic development projects;

(4) Adopt rules for the administration of the program, including the terms and rates pertaining to its loans, and criteria for awarding grants, loans, and financial guarantees;

(5) Adopt a spending strategy for the moneys in the fund created in RCW 43.31.422. The strategy shall include five and ten year goals for economic development and diversification for use of the moneys in the Hanford area;

(6) Recommend to the director no more than two allocations eligible for funding per calendar year, with a first priority on Hanford area revolving loan allocations, and Hanford area infrastructure allocations followed by other Hanford area economic development and diversification projects if the committee finds that there are no suitable allocations in the priority allocations described in this section;

(7) Establish and administer a revolving fund consistent with this section and RCW 43.31.422 and 43.31.425; and

(8) Make grants from the Hanford area economic investment fund consistent with this section and RCW 43.31.422 and 43.31.425. [2004 c 77 § 2; 1998 c 76 § 3; 1991 c 272 § 21.]

***Reviser's note:** The "Hanford area economic investment fund committee" was renamed the "Hanford area economic investment fund advisory committee" pursuant to 2011 1st sp.s. c 21 § 41.

Additional notes found at www.leg.wa.gov

43.31.450 SEED act—Findings—Purpose. The legislature finds that economic well-being encompasses not only income, spending, and consumption, but also savings, investment, and asset-building. The building of assets, in particular,

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can improve individuals' economic independence and stability. The legislature further finds that it is appropriate for the state to institute an asset-based strategy to assist low-income families. It is the purpose of chapter 402, Laws of 2005 to promote job training, homeownership, and business development among low-income individuals and to provide assistance in meeting the financial goals of low-income individuals. [2005 c 402 § 2.]

43.31.455 SEED act—Definitions. The definitions in this section apply throughout RCW 43.31.450 through 43.31.475 unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Director" means the director of the department of commerce.

(3) "Foster youth" means a person who is fifteen years of age or older who is a dependent of the department of social and health services; or a person who is at least fifteen years of age, but not more than twenty-three years of age, who was a dependent of the department of social and health services for at least twenty-four months after attaining thirteen years of age.

(4) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual which are matched with contributions by or through the sponsoring organization.

(5) "Low-income individual" means a person whose household income is equal to or less than either:

(a) Eighty percent of the median family income, adjusted for household size, for the county or metropolitan statistical area where the person resides; or

(b) Two hundred percent of the federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2).

(6) "Program" means the individual development account program established pursuant to RCW 43.31.450 through 43.31.475.

(7) "Sponsoring organization" means: (a) A nonprofit, fund-raising organization that is exempt from taxation under section 501(c)(3) of the internal revenue code as amended and in effect on January 1, 2005; (b) a housing authority established under RCW 35.82.030; or (c) a federally recognized Indian tribe. [2009 c 565 § 28; 2005 c 402 § 3.]

43.31.460 SEED act—Individual development account program—Rules. An individual development account program is hereby established within the department for the purpose of facilitating the creation by sponsoring organizations of individual development accounts for low-income individuals.

(1) The department shall select sponsoring organizations to establish and monitor individual development accounts using the following criteria:

(a) The ability of the sponsoring organization to implement and administer an individual development account program, including the ability to verify a low-income individual's eligibility, certify that matching deposits are used only

for approved purposes, and exercise general fiscal accountability;

(b) The capacity of the sponsoring organization to provide or raise funds to match the contributions made by low-income individuals to their individual development accounts;

(c) The capacity of the sponsoring organization to provide or arrange for the provision of financial counseling and other related services to low-income individuals;

(d) The links the sponsoring organization has to other activities and programs related to the purpose of chapter 402, Laws of 2005; and

(e) Such other criteria as the department determines are consistent with the purpose of chapter 402, Laws of 2005 and ease of administration.

(2) An individual development account may be established by or on behalf of an eligible low-income individual to enable the individual to accumulate funds for the following purposes:

(a) The acquisition of postsecondary education or job training;

(b) The purchase of a primary residence, including any usual or reasonable settlement, financing, or other closing costs;

(c) The capitalization of a small business. Account moneys may be used for capital, land, plant, equipment, and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed with a business counselor, trainer, or financial institution approved by the sponsoring organization. The business plan shall include a description of the services or goods to be sold, a marketing strategy, and projected financial statements;

(d) The purchase of a computer, an automobile, or home improvements; or

(e) The purchase of assistive technologies that will allow a person with a disability to participate in work-related activities.

(3) An eligible low-income individual participating in the program must contribute to an individual development account. The contributions may be derived from earned income or other income, as provided by the department. Other income shall include child support payments, supplemental security income, and disability benefits.

(4) A sponsoring organization may authorize a low-income individual for whom an individual development account has been established to withdraw all or part of the individual's deposits for the following emergencies:

(a) Necessary medical expenses;

(b) To avoid eviction of the individual from the individual's residence;

(c) Necessary living expenses following loss of employment; or

(d) Such other circumstances as the sponsoring organization determines merit emergency withdrawal.

The low-income individual making an emergency withdrawal shall reimburse the account for the amount withdrawn within twelve months of the date of withdrawal or the individual development account shall be closed.

(5) Funds held in an individual development account established under RCW 43.31.450 through 43.31.475 shall not be used in the determination of eligibility for, or the

amount of, assistance in any state or federal means-tested program.

(6) The department shall adopt rules as necessary to implement chapter 402, Laws of 2005, including rules regulating the use of individual development accounts by eligible low-income individuals. The department's rules shall require that funds held in an individual development account are to be withdrawn only for the purposes specified in subsection (2) of this section or withdrawn as permitted for emergencies under subsection (4) of this section.

(7) Nothing in this section shall be construed to create an entitlement to matching moneys. [2005 c 402 § 4.]

43.31.465 SEED act—Foster youth individual development account program. (1) A foster youth individual development account program is hereby established within the individual development account program established pursuant to RCW 43.31.460 for the purpose of facilitating the creation by sponsoring organizations of individual development accounts for foster youth.

(2) The department shall select sponsoring organizations to establish and monitor individual development accounts for foster youth from those entities with whom the department of social and health services contracts for independent living services for youth who are or have been dependents of the department of social and health services.

(3) An individual development account may be established by or on behalf of a foster youth to enable the individual to accumulate funds for the following purposes:

(a) The acquisition of postsecondary education or job training;

(b) Housing needs, including rent, security deposit, and utilities costs;

(c) The purchase of a computer if necessary for postsecondary education or job training;

(d) The purchase of a car if necessary for employment; and

(e) Payment of health insurance premiums.

(4) A foster youth participating in the program must contribute to an individual development account. The contributions may be derived from earned income or other income, as provided by the department. Other income shall include financial incentives for educational achievement provided by entities contracted with the department of social and health services for independent living services for youth who are or have been dependents of the department of social and health services. [2005 c 402 § 5.]

43.31.470 SEED act—Individual development account program account. (1) An account is created in the custody of the state treasurer to be known as the individual development account program account. The account shall consist of all moneys appropriated to the account by the legislature and any other federal, state, or private funds, appropriated or nonappropriated, as the department receives for the purpose of matching low-income individuals' contributions to their individual development accounts. Expenditures from the account may be used only for the following:

(a) Grants to sponsoring organizations selected by the department to participate in the individual development account program to assist sponsoring organizations in provid-

ing or arranging for the provision of financial counseling and other related services to low-income individuals participating in the program and for program administration purposes;

(b) A match to be determined by the department of up to four dollars for every dollar deposited by an individual into the individual's individual development account, except that the maximum amount provided as a match for each individual development account shall be four thousand dollars; and

(c) The department's administrative expenses in carrying out the purposes of chapter 402, Laws of 2005.

(2) Only the director or the director's designee may authorize expenditures from the account.

(3) The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2005 c 402 § 6.]

43.31.475 SEED act—Additional funds and purposes. Sponsoring organizations may seek additional funds to increase the match rate and the maximum annual match amount established pursuant to RCW 43.31.465. Such funds may also be used for purposes in addition to those provided in RCW 43.31.460(2). [2005 c 402 § 7.]

43.31.480 SEED act—Report to the legislature. The department shall annually report to the legislature and the governor on the individual development account program established pursuant to RCW 43.31.450 through 43.31.475. [2005 c 402 § 9.]

43.31.485 SEED act—Short title—2005 c 402. This act shall be known as the saving, earning, and enabling dreams (SEED) act. [2005 c 402 § 1.]

43.31.502 Child care facility revolving fund—Purpose—Source of funds. (1) A child care facility revolving fund is created. Money in the fund shall be used solely for the purpose of starting or improving a child care facility pursuant to RCW *43.31.085 and 43.31.502 through 43.31.514. Only moneys from private or federal sources may be deposited into this fund.

(2) Funds provided under this section shall not be subject to reappropriation. The child care facility fund committee may use loan and grant repayments and income for the revolving fund program.

(3) During the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the child care facility revolving fund to the state general fund. [2020 c 357 § 914; 1991 c 248 § 1; 1989 c 430 § 3.]

***Reviser's note:** RCW 43.31.085 was repealed by 1993 c 280 § 81, effective June 30, 1996.

Effective date—2020 c 357: See note following RCW 43.79.545.

Legislative findings—1989 c 430: "The legislature finds that increasing the availability and affordability of quality child care will enhance the stability of the family and facilitate expanded economic prosperity in the state. The legislature finds that balancing work and family life is a critical concern for employers and employees. The dramatic increase in participation of women in the workforce has resulted in a demand for affordable child care exceeding the supply. The future of the state's workforce depends in part upon the availability of quality affordable child care. There are not enough child care services and facilities to meet the needs of working parents, the costs of care are often beyond the resources of working parents, and facilities are not located conveniently to workplaces and neighborhoods. The prospect for labor shortages resulting from the aging of the population and the impor-

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tance of the quality of the workforce to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state's businesses.

The legislature further finds that a partnership between business and child care providers can help the market for child care adjust to the needs of businesses and working families and improve productivity, reduce absenteeism, improve recruitment, and improve morale among Washington's labor force. The legislature further finds that private and public partnerships and investments are necessary to increase the supply, affordability, and quality of child care in the state." [1989 c 430 § 1.]

Additional notes found at www.leg.wa.gov

43.31.504 Child care facility fund committee—Generally. The child care facility fund committee is established within the *business assistance center of the **department of community, trade, and economic development. The committee shall administer the child care facility fund, with review by the **director of community, trade, and economic development.

(1) The committee shall have five members. The **director of community, trade, and economic development shall appoint the members, who shall include:

(a) Two persons experienced in investment finance and having skills in providing capital to new businesses, in starting and operating businesses, and providing professional services to small or expanding businesses;

(b) One person representing a philanthropic organization with experience in evaluating funding requests;

(c) One child care services expert; and

(d) One early childhood development expert.

In making these appointments, the director shall give careful consideration to ensure that the various geographic regions of the state are represented and that members will be available for meetings and are committed to working cooperatively to address child care needs in Washington state.

(2) The committee shall elect officers from among its membership and shall adopt policies and procedures specifying the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members shall not be liable to the state, to the child care facility fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law. The **department of community, trade, and economic development may purchase liability insurance for members and may indemnify these persons against the claims of others. [1993 c 280 § 45; 1989 c 430 § 4.]

Reviser's note: *(1) The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

***(2) The "department of community, trade, and economic development" and the "director of community, trade, and economic development" were renamed the "department of commerce" and the "director of commerce" by 2009 c 565.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Additional notes found at www.leg.wa.gov

43.31.506 Child care facility fund committee—Authority to award moneys from fund. The child care facility fund committee is authorized to solicit applications for and award grants and loans from the child care facility fund to assist persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility. Grants and loans shall be awarded on a one-time only basis, and shall not be awarded to cover operating expenses beyond the first three months of business. No grant shall exceed twenty-five thousand dollars. No loan shall exceed one hundred thousand dollars. [1991 c 248 § 2; 1989 c 430 § 5.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.508 Child care facility fund committee—Loans to child care facilities. The child care facility fund committee is authorized, upon application, to use the child care facility fund to guarantee loans made to persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility.

(1) Loan guarantees shall be awarded on a one-time only basis, and shall not be awarded for loans to cover operating expenses beyond the first three months of business.

(2) The total aggregate amount of the loan guarantee awarded to any applicant may not exceed twenty-five thousand dollars and may not exceed eighty percent of the loan.

(3) The total aggregate amount of guarantee from the child care facility fund, with respect to the guaranteed portions of loans, may not exceed at any time an amount equal to five times the balance in the child care facility fund. [1989 c 430 § 6.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.512 Child care facility fund committee—Loans or grants to individuals, businesses, or organizations. The child care facility fund committee shall award loan guarantees, loans or grants to those persons, businesses, or organizations meeting the minimum standards set forth in this chapter who will best serve the intent of the chapter to increase the availability of high quality, affordable child care in Washington state. The committee shall promulgate rules regarding the application for and disbursement of loan guarantees, loans, or grants from the fund, including loan terms and repayment procedures. At a minimum, such rules shall require an applicant to submit a plan which includes a detailed description of:

(1) The need for a new or improved child care facility in the area served by the applicant;

(2) The steps the applicant will take to serve a reasonable number of children with disabilities, sick children, infants, children requiring nighttime or weekend care, or children whose costs of care are subsidized by government;

(3) Why financial assistance from the state is needed to start or improve the child care facility;

(4) How the guaranteed loan, loan, or grant will be used, and how such uses will meet the described need;

(5) The child care services to be available at the facility and the capacity of the applicant to provide those services; and

(6) The financial status of the applicant, including other resources available to the applicant which will ensure the continued viability of the facility and the availability of its described services.

Recipients shall annually for two years following the receipt of the loan guarantee, loan, or grant, submit to the child care facility fund committee a report on the facility and how it is meeting the child care needs for which it was intended. [2020 c 274 § 23; 1989 c 430 § 7.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.514 Child care facility fund committee—Grants, repayment requirements. Where the child care facility fund committee makes a grant to a person, organization, or business, the grant shall be repaid to the child care facility fund if the child care facility using the grant to start or expand ceases to provide child care earlier than the following time periods from the date the grant is made: (1) Twelve months for a grant up to five thousand dollars; (2) twenty-four months for a grant over five thousand dollars up to ten thousand dollars; (3) thirty-six months for a grant over ten thousand dollars up to fifteen thousand dollars; (4) forty-eight months for a grant over fifteen thousand dollars up to twenty thousand dollars; and (5) sixty months for a grant over twenty thousand dollars up to twenty-five thousand dollars. [1989 c 430 § 8.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.545 Recycled materials and products—Market development. The department is the lead state agency to assist in establishing and improving markets for recyclable materials generated in the state. [1991 c 319 § 210; 1989 c 431 § 64.]

43.31.565 Early learning facilities grant and loan program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.31.567 through 43.31.583:

(1) "Department" means the department of commerce.

(2) "Director" means the director of commerce.

(3) "Early learning facility" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods of less than twenty-four hours. [2021 c 130 § 4; 2017 3rd sp.s. c 12 § 3.]

Findings—Intent—2017 3rd sp.s. c 12: "The legislature finds that there is a significant and critical need for additional early learning facilities to meet the state's commitment to providing high quality early learning opportunities to low-income children, including the legal mandate to provide preschool opportunities through the early childhood education and assistance program to all eligible children by 2023.

The legislature further finds that private and public partnerships and investments are critical to meeting the need for increased classrooms necessary to deliver high quality early learning opportunities to low-income children across Washington.

The legislature intends to provide state financial assistance to leverage local and private resources to enable early childhood education and assistance program contractors and child care providers to expand, remodel, purchase, or construct early learning facilities and classrooms necessary to support state-funded early learning opportunities for low-income children." [2017 3rd sp.s. c 12 § 1.]

Effective date—2017 3rd sp.s. c 12: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of

the state government and its existing public institutions, and takes effect immediately [July 6, 2017]." [2017 3rd sp.s. c 12 § 15.]

43.31.567 Early learning facilities grant and loan program—Review of existing licensing standards by department of early learning—Preapproval under existing licensing standards. The *department of early learning, in consultation with stakeholders, shall review existing licensing standards including, but not limited to, plumbing, fixtures, and playground equipment, related to facility requirements to eliminate potential barriers to licensing while ensuring the health and safety of children in early learning programs. The department must create a process by which projects for eligible organizations and school districts receiving grants or loans from the early learning facilities revolving account or the early learning facilities development account created in RCW 43.31.569 can be preapproved under existing licensing standards related to facility requirements. The licensing standards accepted in the preapproval are the licensing standards that must be met upon project completion. [2017 3rd sp.s. c 12 § 2.]

***Reviser's note:** The department of early learning was abolished and its powers, duties, and functions were transferred to the department of children, youth, and families by 2017 3rd sp.s. c 6 § 802, effective July 1, 2018.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.569 Early learning facilities grant and loan program—Early learning facilities revolving account—Early learning facilities development account. (1) The early learning facilities revolving account and the early learning facilities development account are created in the state treasury.

(2) Revenues to the early learning facilities revolving account shall consist of appropriations by the legislature, early learning facilities grant and loan repayments, taxable bond proceeds, and all other sources deposited in the account.

(3) Revenues to the early learning facilities development account shall consist of tax exempt bond proceeds.

(4) Expenditures from the accounts shall be used, in combination with other private and public funding, for state matching funds for the planning, renovation, purchase, and construction of early learning facilities as established in RCW 43.31.573 through 43.31.583 and 43.84.092.

(5) Expenditures from the accounts are subject to appropriation and the allotment provisions of chapter 43.88 RCW.

(6) The early learning facilities revolving account shall be known as the Ruth LeCocq Kagi early learning facilities revolving account.

(7) The early learning facilities development account shall be known as the Ruth LeCocq Kagi early learning facilities development account. [2021 c 130 § 3; 2017 3rd sp.s. c 12 § 4.]

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.571 Early learning facilities grant and loan program—Oversight, in consultation with the department of children, youth, and families—Head state agency—Use of funds. (1) The department, in consultation with the department of children, youth, and families, shall oversee the early learning facilities revolving account and the

early learning facilities development account, and is the lead state agency for the early learning facilities grant and loan program.

(2) It is the intent of the legislature that state funds invested in the accounts be matched by private or local government funding. Every effort shall be made to maximize funding available for early learning facilities from public schools, community colleges, educational service districts, local governments, and private funders.

(3) Amounts used for program administration by the department may not exceed an average of four percent of the appropriated funds.

(4) Commitment of state funds for construction, purchase, or renovation of early learning facilities may be given only after private or public match funds are committed. Private or public match funds may consist of cash, equipment, land, buildings, or like-kind. In determining the level of match required, the department shall take into consideration the financial need of the applicant and the economic conditions of the location of the proposed facility. [2018 c 58 § 5; 2017 3rd sp.s. c 12 § 5.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.573 Early learning facilities grant and loan program—State matching funds for grants or loans—Participation by nongovernmental private-public partnerships—Monitoring performance. (1) The department must expend moneys from the early learning facilities revolving account to provide state matching funds for early learning facilities grants or loans to provide classrooms necessary for children to participate in the early childhood education and assistance program and working connections child care.

(2) The department must expend moneys from the early learning facilities development account to provide state matching funds for early learning facilities grants to provide classrooms necessary for children to participate in the early childhood education and assistance program and working connections child care.

(3) Funds expended from the accounts as specified in subsections (1) and (2) of this section may fund projects only for:

(a) Eligible organizations identified in RCW 43.31.575; and

(b) School districts.

(4)(a) Beginning August 1, 2017, the department shall:

(i) In consultation with the office of the superintendent of public instruction, implement and administer the early learning facilities grant and loan program for school districts as described in RCW 43.31.579(3) and 43.31.581(1); and

(ii) Contract with one or more nongovernmental private-public partnerships that are certified by the community development financial institutions fund to implement and administer grants and loans funded through the early learning facilities revolving account or for a grant funded through the early learning facilities development account, for eligible organizations. Any nongovernmental private-public partnership that is certified by the community development financial institutions fund that is seeking early learning fund resources must demonstrate an ability to raise funding from private and

other public entities for early learning facilities construction projects.

(b) The department may allow the application of an eligible organization for a grant or loan from the early learning facilities revolving account or for a grant from the early learning facilities development account created in RCW 43.31.569 to be considered without the involvement of the nongovernmental private-public partnership that is certified by the community development financial institutions fund if a nongovernmental private-public partnership certified by the community development financial institutions fund is not reasonably available to the location of the proposed facility or if the eligible organization has sufficient ability and capacity to proceed with a project absent the involvement of a nongovernmental private-public partnership that is certified by the community development financial institutions fund.

(5) The department shall monitor performance of the early learning facilities grant and loan program. Any nongovernmental private-public partnership that is certified by the community development financial institutions fund receiving state funds for purposes of chapter 12, Laws of 2017 3rd sp. sess. shall provide annual reports, beginning July 1, 2018, to the department. The reports must include, but are not limited to, the following:

(a) A list of projects funded through the early learning facilities grant and loan program for eligible organizations to include:

- (i) Name;
- (ii) Location;
- (iii) Grant or loan amount;
- (iv) Private match amount;
- (v) Public match amount;
- (vi) Number of early learners served; and
- (vii) Other elements as required by the department;

(b) A demonstration of sufficient investment of private match funds; and

(c) A description of how the projects met the criteria described in RCW 43.31.581. [2017 3rd sp.s. c 12 § 6.]

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.575 Early learning facilities grant and loan program—Eligible organizations—Requirements. (1) Organizations eligible to receive funding from the early learning facilities grant and loan program include:

(a) Early childhood education and assistance program providers;

(b) Working connections child care providers who are eligible to receive state subsidies;

(c) Licensed early learning centers not currently participating in the early childhood education and assistance program, but intending to do so;

(d) Developers of housing and community facilities;

(e) Community and technical colleges;

(f) Educational service districts;

(g) Local governments;

(h) Federally recognized tribes in the state; and

(i) Religiously affiliated entities.

(2) To be eligible to receive funding from the early learning facilities grant and loan program for activities described

in RCW 43.31.577 (1) (b) and (c) and (2), eligible organizations and school districts must:

(a) Commit to being an active participant in good standing with the early achievers program as defined by chapter 43.216 RCW; and

(b) Demonstrate that projects receiving construction, purchase, or renovation grants or loans must also:

(i) Demonstrate that the project site is under the applicant's control for a minimum of ten years, either through ownership or a long-term lease; and

(ii) Commit to using the facility funded by the grant or loan for the purposes of providing preschool or child care for a minimum of ten years.

(3) To be eligible to receive funding from the early learning facilities grant and loan program for activities described in RCW 43.31.577 (1) (b) and (c) and (2), religiously affiliated entities must use the facility to provide child care and education services consistent with subsection (4)(a) of this section.

(4)(a) Upon receiving a grant or loan, the recipient must continue to be an active participant and in good standing with the early achievers program.

(b) If the recipient does not meet the conditions specified in (a) of this subsection, the grants shall be repaid to the early learning facilities revolving account or the early learning facilities development account, as directed by the department. So long as an eligible organization continues to provide an early learning program in the facility, the facility is used as authorized, and the eligible organization continues to be an active participant and in good standing with the early achievers program, the grant repayment is waived.

(c) The department, in consultation with the department of children, youth, and families, must adopt rules to implement this section. [2021 c 130 § 2; 2018 c 58 § 18; 2017 3rd sp.s. c 12 § 7.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.577 Early learning facilities grant and loan program—Eligible activities. (1) Activities eligible for funding through the early learning facilities grant and loan program for eligible organizations include:

(a) Facility predesign grants or loans of no more than \$20,000 to allow eligible organizations to secure professional services or consult with organizations certified by the community development financial institutions fund to plan for and assess the feasibility of early learning facilities projects or receive other technical assistance to design and develop projects for construction funding;

(b) Grants or loans of no more than \$200,000 for minor renovations or repairs of existing early learning facilities or for predevelopment activities to advance a proposal from planning to major construction or renovation;

(c) Major construction and renovation grants or loans and grants or loans for facility purchases of no more than \$1,000,000 to create or expand early learning facilities; and

(d) Administration costs associated with conducting application processes, managing contracts, and providing technical assistance.

(2) Activities eligible for funding through the early learning facilities grant and loan program for school districts include major construction, purchase, and renovation grants or loans of no more than \$1,000,000 to create or expand early learning facilities that received priority and ranking as described in RCW 43.31.581.

(3) Amounts in this section must be increased annually by the United States implicit price deflator for state and local government construction provided by the office of financial management. [2021 c 130 § 1; 2017 3rd sp.s. c 12 § 8.]

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.579 Early learning facilities grant and loan program—Private or local government matching funding—School districts' ranked and prioritized list of projects. (1) It is the intent of the legislature that state funds invested in the early learning facilities grant and loan program be matched by private or local government funding. Every effort shall be made to maximize funding available for early learning facilities from public schools, community colleges, education[al] service districts, local governments, and private funders.

(2) In the administration of the early learning facilities grant and loan program for eligible organizations, any non-governmental private-public partnership that is certified by the community development financial institutions fund contracted with the department shall award grants or loans as described in RCW 43.31.577, that meet the criteria described in RCW 43.31.581, through an application process or in compliance with state and federal requirements of the funding source.

(3) In the administration of the early learning facilities grant and loan program for school districts, the department, in coordination with the office of the superintendent of public instruction, shall submit a ranked and prioritized list of proposed purchases and major construction or renovation of early learning facilities projects for school districts subject to the prioritization methodology described in RCW 43.31.581 to the office of financial management and the relevant legislative committees by December 15, 2017, and by September 15th of even-numbered years thereafter. [2017 3rd sp.s. c 12 § 9.]

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.581 Early learning facilities grant and loan program—Committee of facilities experts—Advice regarding prioritization methodology—Liability insurance. (1) The department shall convene a committee of early learning facilities experts to advise the department regarding the prioritization methodology of applications for projects described in RCW 43.31.577 including no less than one representative each from the department of children, youth, and families, the Washington state housing finance commission, an organization certified by the community development financial institutions fund, and the office of the superintendent of public instruction.

(2) When developing a prioritization methodology under this section, the committee shall consider, but is not limited to:

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(a) Projects that add part-day, full-day, or extended day early childhood education and assistance program slots in areas with the highest unmet need;

(b) Projects benefiting low-income children;

(c) Projects located in low-income neighborhoods;

(d) Projects that provide more access to the early childhood education and assistance program as a ratio of the children eligible to participate in the program;

(e) Projects that are geographically disbursed relative to statewide need;

(f) Projects that include new or renovated kitchen facilities equipped to support the use of from scratch, modified scratch, or other cooking methods that enhance overall student nutrition;

(g) Projects that balance mixed-use development and rural locations; and

(h) Projects that maximize resources available from the state with funding from other public and private organizations, including the use of state lands or facilities.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members are not liable to the state, the early learning facilities revolving account, the early learning facilities development account, or to any other person, as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law.

(5) The department may purchase liability insurance for members and may indemnify these persons against the claims of others. [2018 c 58 § 17; 2017 3rd sp.s. c 12 § 10.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.583 Early learning facilities grant and loan program—Report. When funding is provided in the previous biennium, the department, in collaboration with the department of children, youth, and families, shall submit a report no later than December 1st of even-numbered years, to the governor and the appropriate committees of the legislature that provides an update on the status of the early learning facilities grant and loan program that includes, but is not limited to:

(1) The total amount of funds, by grant and loan, spent or contracted to be spent; and

(2) A list of projects awarded funding including, but not limited to, information about whether the project is a renovation or new construction or some other category, where the project is located, and the number of slots the project supports. [2018 c 58 § 16; 2017 3rd sp.s. c 12 § 11.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

43.31.605 Landlord mitigation program—Department to administer and have rule-making authority—Claims—Eligibility for reimbursement—Review—Damages—Inspection—Landlords prohibited from certain acts—Denial of reimbursement—Department to establish website—Liability—Report, recommendations. (1)

[Title 43 RCW—page 277]

Subject to the availability of funds for this purpose, the landlord mitigation program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

The following types of claims related to landlord mitigation are eligible for reimbursement from the landlord mitigation program account:

(a) Claims relating to renting private market rental units to low-income tenants using a housing subsidy program for:

(i) Up to one thousand dollars for improvements identified in RCW 59.18.255(1)(a). In order to be eligible for reimbursement under this subsection (1)(a)(i), the landlord must pay for the first five hundred dollars for improvements, and rent to the tenant whose housing subsidy program was conditioned on the real property passing inspection. Reimbursement under this subsection (1)(a)(i) may also include up to fourteen days of lost rental income from the date of offer of housing to the applicant whose housing subsidy program was conditioned on the real property passing inspection until move in by that applicant;

(ii) Reimbursement for damages as reflected in a judgment obtained against the tenant through either an unlawful detainer proceeding, or through a civil action in a court of competent jurisdiction after a hearing;

(iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

(iv) Reimbursement for unpaid rent and unpaid utilities, provided that the landlord can evidence it to the department's satisfaction.

(b) Claims related to landlord mitigation for an unpaid judgment for rent, unpaid judgments resulting from the tenant's failure to comply with an installment payment agreement identified in RCW 59.18.610, late fees, attorneys' fees, and costs after a court order pursuant to RCW 59.18.410(3), including any unpaid portion of the judgment after the tenant defaults on the payment plan pursuant to RCW 59.18.410(3)(c), are eligible for reimbursement from the landlord mitigation program account and are exempt from any postjudgment interest required under RCW 4.56.110. Any claim for reimbursement made pursuant to RCW 59.18.410(3)(e)(ii) must be accompanied by a court order staying the writ of restitution pursuant to RCW 59.18.410(3). Any claim for reimbursement under this subsection (1)(b) is not an entitlement.

(i) The department shall provide for a form on its website for tenants and landlords to apply for reimbursement funds for the landlord pursuant to this subsection (1)(b).

(ii) The form must include: (A) Space for the landlord and tenant to provide names, mailing addresses, phone numbers, date of birth for the tenant, and any other identifying information necessary for the department to process payment; (B) the landlord's statewide vendor identification number and how to obtain one; (C) name and address to whom payment must be made; (D) the amount of the judgment with instructions to include any other supporting documentation the department may need to process payment; (E) instructions for how the tenant is to reimburse the department under (b)(iii) of this subsection; (F) a description of the consequences if the tenant does not reimburse the department as provided in this subsection (1)(b); (G) a signature line for the

landlord and tenant to confirm that they have read and understood the contents of the form and program; and (H) any other information necessary for the operation of the program. If the tenant has not signed the form after the landlord has made good faith efforts to obtain the tenant's signature, the landlord may solely submit the form but must attest to the amount of money owed and sign the form under penalty of perjury.

(iii) When a landlord has been reimbursed pursuant to this subsection (1)(b), the tenant for whom payment was made shall reimburse the department by depositing the amount disbursed from the landlord mitigation program account into the court registry of the superior court in which the judgment was entered. The tenant or other interested party may seek an ex parte order of the court under the unlawful detainer action to order such funds to be disbursed by the court. Upon entry of the order, the court clerk shall disburse the funds and include a case number with any payment issued to the department. If directed by the court, a clerk shall issue any payments made by a tenant to the department without further court order.

(iv) The department may deny an application made by a tenant who has failed to reimburse the department for prior payments issued pursuant to this subsection (1)(b).

(v) With any disbursement from the account to the landlord, the department shall notify the tenant at the address provided within the application that a disbursement has been made to the landlord on the tenant's behalf and that failure to reimburse the account for the payment through the court registry may result in a denial of a future application to the account pursuant to this subsection (1)(b). The department may include any other additional information about how to reimburse the account it deems necessary to fully inform the tenant.

(vi) The department's duties with respect to obtaining reimbursement from the tenant to the account are limited to those specified within this subsection (1)(b).

(vii) If at any time funds do not exist in the landlord mitigation program account to reimburse claims submitted under this subsection (1)(b), the department must create and maintain a waitlist and distribute funds in the order the claims are received pursuant to subsection (6) of this section. Payment of any claims on the waitlist shall be made only from the landlord mitigation program account. The department shall not be civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement.

(c)(i) Claims related to unpaid rent for:

(A) Up to \$15,000 in unpaid rent that accrued between March 1, 2020, and six months following the expiration of the eviction moratorium and the tenant being low-income, limited resourced or experiencing hardship, voluntarily vacated or abandoned the tenancy; or

(B) Up to \$15,000 in remaining unpaid rent if a tenant defaults on a repayment plan entered into under RCW 59.18.630 are eligible for reimbursement from the landlord mitigation program account subject to the program requirements under this section, provided the tenancy has not been terminated at the time of reimbursement.

(ii) A landlord is ineligible for reimbursement under this subsection (1)(c) where the tenant vacated the tenancy because of an unlawful detainer action under RCW 59.12.030(3).

(iii) A landlord in receipt of reimbursement from the program pursuant to this subsection (1)(c) is prohibited from:

(A) Taking legal action against the tenant for damages or any remaining unpaid rent accrued between March 1, 2020, and six months following the expiration of the eviction moratorium attributable to the same tenancy; or

(B) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for damages or any remaining unpaid rent accrued between March 1, 2020, and six months following the expiration of the eviction moratorium attributable to the same tenancy.

(d)(i) Claims, up to \$5,000, related to landlord mitigation for damages to rental property when:

(A) A tenant has terminated a rental agreement pursuant to RCW 59.18.575;

(B) The property has sustained damage beyond wear resulting from ordinary use of the premises;

(C) The landlord has, within the time limits specified in RCW 59.18.280, provided the tenant with a full and specific statement;

(D) The landlord has, rather than retaining any of the damage deposit, returned the full damage deposit to the tenant; and

(E) The landlord has agreed not to proceed against the tenant to recover the balance owed.

(ii) Any claim for reimbursement under this subsection (1)(d) is not an entitlement.

(iii) If at any time funds do not exist in the landlord mitigation program account to reimburse claims submitted under this subsection (1)(d), the department must create and maintain a waitlist and distribute funds in the order the claims are received pursuant to subsection (6) of this section. Payment of any claims on the waitlist shall be made only from the landlord mitigation program account. The department is not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement.

(iv) The department shall provide for a form on its website for landlords to apply for reimbursement funds for the landlord pursuant to this subsection (1)(d).

(v) The department shall provide for the confidentiality of tenants' personal information and shall have such rule-making authority as is necessary to protect the personal information of tenants under this subsection (1)(d).

(2) In order for a claim under subsection (1)(a)(iii) or (d) of this section to be eligible for reimbursement from the landlord mitigation program account, a landlord must:

(a) Have ensured that the rental property was inspected at the commencement of the tenancy by both the tenant and the landlord or landlord's agent and that a detailed written move-in property inspection report, as required in RCW 59.18.260, was prepared and signed by both the tenant and the landlord or landlord's agent;

(b) Make repairs and then apply for reimbursement to the department;

(c) Submit a claim on a form to be determined by the department, signed under penalty of perjury; and

(d) Submit to the department copies of the move-in property inspection report specified in (a) of this subsection and supporting materials including, but not limited to, before repair and after repair photographs, videos, copies of repair receipts for labor and materials, and such other documentation or information as the department may request.

(3)(a) The department shall make reasonable efforts to review a claim within ten business days from the date it received properly submitted and complete claims to the satisfaction of the department.

(b) In reviewing a claim pursuant to subsection (1)(a) of this section, and determining eligibility for reimbursement, the department must receive documentation, acceptable to the department in its sole discretion, that the claim involves a private market rental unit rented to a low-income tenant who is using a housing subsidy program.

(c) In reviewing a claim pursuant to subsection (1)(d)(i) of this section, and determining eligibility for reimbursement, the department must receive documentation, acceptable to the department in its sole discretion, that the claim involves a tenancy that was terminated pursuant to RCW 59.18.575 and that all of the requirements of subsection (1)(d)(i) of this section have been met.

(4) Claims pursuant to subsection (1)(a) of this section related to a tenancy must total at least five hundred dollars in order for a claim to be eligible for reimbursement from the program. While claims or damages may exceed five thousand dollars, total reimbursement from the program may not exceed five thousand dollars per tenancy. For the 2021-2023 fiscal biennium, while claims or damages may exceed \$10,000, total reimbursement from the program may not exceed \$10,000 per tenancy.

(5) Damages, beyond wear and tear, that are eligible for reimbursement include, but are not limited to: Interior wall gouges and holes; damage to doors and cabinets, including hardware; carpet stains or burns; cracked tiles or hard surfaces; broken windows; damage to household fixtures such as disposal, toilet, sink, sink handle, ceiling fan, and lighting. Other property damages beyond normal wear and tear may also be eligible for reimbursement at the department's discretion.

(6) All reimbursements for eligible claims shall be made on a first-come, first-served basis, to the extent of available funds. The department shall use best efforts to notify the tenant of the amount and the reasons for any reimbursements made.

(7) The department, in its sole discretion, may inspect the property and the landlord's records related to a claim, including the use of a third-party inspector as needed to investigate fraud, to assist in making its claim review and determination of eligibility.

(8) A landlord in receipt of reimbursement from the program pursuant to subsection (1)(a) or (d) of this section is prohibited from:

(a) Taking legal action against the tenant for damages attributable to the same tenancy; or

(b) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment

against the tenant for damages attributable to the same tenancy.

(9) A landlord denied reimbursement under subsection (1)(a)(iii) of this section may seek to obtain a judgment from a court of competent jurisdiction and, if successful, may resubmit a claim for damages supported by the judgment, along with a certified copy of the judgment. The department may reimburse the landlord for that portion of such judgment that is based on damages reimbursable under the landlord mitigation program, subject to the limitations set forth in this section.

(10) Determinations regarding reimbursements shall be made by the department in its sole discretion.

(11) The department must establish a website that advertises the landlord mitigation program, the availability of reimbursement from the landlord mitigation program account, and maintains or links to the agency rules and policies established pursuant to this section.

(12) Neither the state, the department, or persons acting on behalf of the department, while acting within the scope of their employment or agency, is liable to any person for any loss, damage, harm, or other consequence resulting directly or indirectly from the department's administration of the landlord mitigation program or determinations under this section.

(13)(a) A report to the appropriate committees of the legislature on the effectiveness of the program and recommended modifications shall be submitted to the governor and the appropriate committees of the legislature by January 1, 2021. In preparing the report, the department shall convene and solicit input from a group of stakeholders to include representatives of large multifamily housing property owners or managers, small rental housing owners in both rural and urban markets, a representative of tenant advocates, and a representative of the housing authorities.

(b) The report shall include discussion of the effectiveness of the program as well as the department's recommendations to improve the program, and shall include the following:

(i) The number of total claims and total amount reimbursed to landlords by the fund;

(ii) Any indices of fraud identified by the department;

(iii) Any reports by the department regarding inspections authorized by and conducted on behalf of the department;

(iv) An outline of the process to obtain reimbursement for improvements and for damages from the fund;

(v) An outline of the process to obtain reimbursement for lost rent due to the rental inspection and tenant screening process, together with the total amount reimbursed for such damages;

(vi) An evaluation of the feasibility for expanding the use of the mitigation fund to provide up to ninety-day no interest loans to landlords who have not received timely rental payments from a housing authority that is administering section 8 rental assistance; and

(vii) Any other modifications and recommendations made by stakeholders to improve the effectiveness and applicability of the program.

(14) As used in this section:

(a) "Housing subsidy program" means a housing voucher as established under 42 U.S.C. Sec. 1437 as of January 1,

2018, or other housing subsidy program including, but not limited to, valid short-term or long-term federal, state, or local government, private nonprofit, or other assistance program in which the tenant's rent is paid either partially by the program and partially by the tenant, or completely by the program directly to the landlord;

(b) "Low-income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the rental unit is located; and

(c) "Private market rental unit" means any unit available for rent that is owned by an individual, corporation, limited liability company, nonprofit housing provider, or other entity structure, but does not include housing acquired, or constructed by a public housing agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018. This definition only applies to claims for mitigation under subsection (1)(a) of this section and does not exclude public housing agencies from making claims under subsection (1)(b), (c), or (d) of this section. [2022 c 297 § 952; 2022 c 196 § 2; 2021 c 115 § 5. Prior: 2020 c 315 § 8; 2020 c 169 § 2; 2019 c 356 § 12; 2018 c 66 § 2.]

Reviser's note: This section was amended by 2022 c 196 § 2 and by 2022 c 297 § 952, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2022 c 297: See note following RCW 43.79.565.

Finding—Intent—2022 c 196: "The legislature finds that domestic violence, sexual assault, unlawful harassment, and stalking are acts of violence that have devastating effects upon individual victims, their children, their communities, and the state as a whole. These acts of violence threaten the housing stability of many residents of this state. Victims of these violent acts may be forced to remain in unsafe and abusive situations because they do not have the financial wherewithal to obtain alternate housing. It is the long-standing practice of the state to provide rental assistance to its residents in a variety of urgent situations. By this act, the legislature intends to increase safety for victims of domestic violence, sexual assault, unlawful harassment, and stalking by removing some of the financial barriers to safely obtaining alternate housing and thereby contribute to the general welfare of the state." [2022 c 196 § 1.]

Finding—Intent—Application—Effective date—2021 c 115: See notes following RCW 59.18.620.

Effective date—2020 c 315 §§ 5-8: See note following RCW 59.18.410.

Findings—Intent—2020 c 315: See note following RCW 59.18.057.

Intent—2019 c 356: See note following RCW 59.12.030.

43.31.615 Landlord mitigation program account. (1) The landlord mitigation program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments, private contributions, and all other sources must be deposited into the account. Expenditures from the account may only be used for the landlord mitigation program under this chapter to reimburse landlords for eligible claims related to private market rental units during the time of their rental to low-income tenants using housing subsidy programs as defined in RCW 43.31.605, for any unpaid judgment issued within an unlawful detainer action after a court order pursuant to RCW 59.18.410(3) as described in RCW 43.31.605(1)(b), for any unpaid rent as described in RCW 43.31.605(1)(c), for any damages to rental property as described in RCW 43.31.605(1)(d), and for the administrative costs identified in subsection (2) of this section. Only the director or the director's designee may authorize expenditures from the account. The account is subject to

allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Administrative costs associated with application, distribution, and other program activities of the department may not exceed twenty percent of the annual funds available for the landlord mitigation program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(3) Funds deposited into the landlord mitigation program account shall be prioritized by the department for allowable costs under RCW 43.31.605(1) (a) and (d), and may only be used for other allowable costs when funding available in the account exceeds the amount needed to pay claims under RCW 43.31.605(1) (a) and (d). [2022 c 196 § 6; 2021 c 115 § 6; 2019 c 356 § 13; 2018 c 66 § 3.]

Finding—Intent—2022 c 196: See note following RCW 43.31.605.

Finding—Intent—Application—Effective date—2021 c 115: See notes following RCW 59.18.620.

Intent—2019 c 356: See note following RCW 59.12.030.

43.31.625 Industrial waste coordination program.

(1) An industrial waste coordination program is established in order to provide expertise, technical assistance, and best practices to support local industrial symbiosis projects.

(2) The industrial waste coordination program must be administered by the department of commerce and administered regionally, with each region provided with a dedicated facilitator and technical and administrative support.

(3) The industrial waste coordination program must facilitate waste exchange by:

(a) Developing inventories of industrial waste innovation currently in operation;

(b) Generating a material flow data collection system in order to capture and manage data on resource availability and potential synergies;

(c) Establishing guidance and best practices for emerging local industrial resource hubs, which must include a consideration of steps to avoid creating or worsening negative impacts to overburdened communities as identified by tools such as the department of health's environmental health disparities map;

(d) Identifying access to capital in order to fund projects, including federal, state, local, and private funding;

(e) Developing economic, environmental, and health disparities metrics to measure the results of industrial or commercial hubs;

(f) Hosting workshops and connecting regional businesses, governments, utilities, research institutions, and other organizations in order to identify opportunities for resource collaboration;

(g) Assisting entities throughout the entire life cycle of industrial symbiosis projects, from identification of opportunities to full project implementation;

(h) Developing economic cluster initiatives in order to spur growth and innovation; and

(i) Making any additional recommendations to the legislature in order to incentivize and facilitate industrial symbiosis.

(4) The department of commerce may coordinate with other agencies, representatives of business and manufactur-

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ing networks, and other entities in order to develop material flow generation data and increase multisectoral outreach.

(5) In generating the material flow data collection system under subsections (3)(b) and (4) of this section, the department of commerce may only use publicly available data or data voluntarily provided by program participants. No entity may be required to disclose material flow data. The department of commerce must keep any proprietary business information confidential and such information is exempt from public disclosure, as provided in RCW 42.56.270. [2021 c 308 § 2.]

Findings—Intent—2021 c 308: "The legislature finds that industrial symbiosis networks create valuable collaborative opportunities where the underutilized resources of one company, such as waste, by-products, residues, energy, water, logistics, capacity, expertise, equipment, and materials may be used by another. The legislature further finds that many existing businesses and organizations in the state have the potential to partner in the establishment of these networks, and the formation of industrial symbiosis innovation hubs at the state and local level would facilitate a systems approach that identifies business opportunities to improve resource utilization and productivity for a more sustainable and integrated industrial economy.

Therefore, the legislature intends to establish a statewide industrial waste coordination program in order to nurture and coordinate existing industrial symbiosis efforts and to catalyze new industrial symbiosis opportunities. Furthermore, the legislature intends to establish the program in order to: Find ways of turning waste and by-products into valued resource inputs; reduce waste management costs; generate new business opportunities; increase the size and diversity of business networks; identify means of improving environmental performance; achieve environmental justice in goals and policies; incentivize pathways to family-wage, green jobs; expand the regional circular economy; and drive innovation." [2021 c 308 § 1.]

43.31.635 Industrial symbiosis grant program. (1)

Subject to the availability of amounts appropriated for this specific purpose, a competitive industrial symbiosis grant program is established in order to provide grants for the research, development, and deployment of local waste coordination projects.

(2) Grants may go towards:

(a) Existing industrial symbiosis efforts by public or private sector organizations;

(b) Emerging industrial symbiosis opportunities involving public or private sector organizations, including projects arising from:

(i) The industrial waste coordination program established in RCW 43.31.625;

(ii) Conceptual work completed by public utilities to redirect their wastes to productive use; or

(iii) Existing inventories or project concepts involving specific biobased wastes converted to renewable natural gas;

(c) Research on product development using a specific waste flow;

(d) Feasibility studies to evaluate potential biobased resources;

(e) Feasibility studies for publicly owned utilities to evaluate business models to transform to multiutility operations or for the evaluation of potential symbiosis connections with other regional businesses; or

(f) Other local waste coordination projects as determined by the department of commerce.

(3) The department of commerce must develop a method and criteria for the allocation of grants, subject to the following:

(a) Project allocation should reflect geographic diversity, with grants being distributed equally in western and eastern parts of the state, urban and rural areas, and small towns and large cities;

(b) Project allocation should consider factors such as time to implementation and scale of economic or environmental benefits;

(c) Grants must require a one-to-one nonstate to state match;

(d) Individual grant awards may not exceed \$500,000; and

(e) Project allocation should avoid creating or worsening environmental health disparities and should make use of tools such as the department of health's environmental health disparities map. [2021 c 308 § 3.]

Findings—Intent—2021 c 308: See note following RCW 43.31.625.

43.31.859 Rural development council—Successor organization—Funding. Notwithstanding anything to the contrary in chapter 41.06 RCW or any other provision of law, the department may contract to provide funding to a successor organization under *RCW 43.31.856 to carry out activities of the organization that are consistent with the department's powers and duties. All moneys for contracts entered into under this section are subject to appropriation. [1999 c 299 § 4.]

***Reviser's note:** RCW 43.31.856 was repealed by 1999 c 299 § 6, effective June 30, 2002.

43.31.970 Electric vehicle infrastructure. The *department of community, trade, and economic development must distribute to local governments model ordinances, model development regulations, and guidance for local governments for siting and installing electric vehicle infrastructure, and in particular battery charging stations, and appropriate handling, recycling, and storage of electric vehicle batteries and equipment, when available. The model ordinances, model development regulations, and guidance must be developed by a federal or state agency, or nationally recognized organizations with specific expertise in land-use regulations or electric vehicle infrastructure. [2009 c 459 § 18.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

43.31.980 Impact fee annual report. (1) Beginning December 1, 2018, and each year thereafter, the department of commerce must prepare an annual report on the impact fee deferral process established in RCW 82.02.050(3). The report must include: (a) The number of deferrals requested of and issued by counties, cities, and towns; (b) the number of deferrals that were not fully and timely paid; and (c) other information as deemed appropriate.

(2) The report required by this section must, in accordance with RCW 43.01.036, be submitted to the appropriate committees of the house of representatives and the senate. [2015 c 241 § 4.]

Effective date—2015 c 241: See note following RCW 82.02.050.

Chapter 43.31C RCW

COMMUNITY EMPOWERMENT ZONES

Sections

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43.31C.901	Conflict with federal requirements—2000 c 212.

43.31C.005 Findings—Declaration. (1) The legislature finds that:

(a) There are geographic areas within communities that are characterized by a lack of employment opportunities, an average income level that is below the median income level for the surrounding community, a lack of affordable housing, deteriorating infrastructure, and a lack of facilities for community services, job training, and education;

(b) Strategies to encourage reinvestment in these areas by assisting local businesses to become stronger and area residents to gain economic power involve a variety of activities and partnerships;

(c) Reinvestment in these areas cannot be accomplished with only governmental resources and require a comprehensive approach that integrates various incentives, programs, and initiatives to meet the economic, physical, and social needs of the area;

(d) Successful reinvestment depends on a local government's ability to coordinate public resources in a cohesive, comprehensive strategy that is designed to leverage long-term private investment in an area;

(e) Reinvestment can strengthen the overall tax base through increased tax revenue from expanded and new business activities and physical property improvement;

(f) Local governments, in cooperation with area residents, can provide leadership as well as planning and coordination of resources and necessary supportive services to address reinvestment in the area; and

(g) It is in the public interest to adopt a targeted approach to revitalization and enlist the resources of all levels of government, the private sector, community-based organizations, and community residents to revitalize an area.

(2) The legislature declares that the purposes of the community empowerment zone act are to:

(a) Encourage reinvestment through strong partnerships and cooperation between all levels of government, community-based organizations, area residents, and the private sector;

(b) Involve the private sector and stimulate private reinvestment through the judicious use of public resources;

(c) Target governmental resources to those areas of greatest need; and

(d) Include all levels of government, community individuals, organizations, and the private sector in the policy-making process. [2000 c 212 § 1.]

43.31C.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Area" means a geographic area within a local government that is described by a close perimeter boundary.
- (2) "Community empowerment zone" means an area meeting the requirements of RCW 43.31C.020 and officially designated by the director.
- (3) "Department" means the department of commerce.
- (4) "Director" means the director of the department of commerce.
- (5) "Local government" means a city, code city, town, or county. [2009 c 565 § 31; 2000 c 212 § 2.]

43.31C.020 Community empowerment zone—Application. (1) The department, in cooperation with the department of revenue, the employment security department, and the office of financial management, may approve applications submitted by local governments for an area's designation as a community empowerment zone under this chapter. The application for designation shall be in the form and manner and contain such information as the department may prescribe, provided that the application shall:

- (a) Contain information sufficient for the director to determine if the criteria established in RCW 43.31C.030 have been met;
- (b) Be submitted on behalf of the local government by its chief elected official, or, if none, by the governing body of the local government;
- (c) Contain a five-year community empowerment plan that meets the requirements of RCW 43.31C.040; and
- (d) Certify that area residents were given the opportunity to participate in the development of the five-year community empowerment strategy required under RCW 43.31C.040.

(2) No local government shall submit more than two areas to the department for possible designation as a community empowerment zone under this chapter.

(3)(a) The director may designate up to six community empowerment zones, statewide, from among the applications submitted for designation as a community empowerment zone.

(b) The director shall make determinations of designated community empowerment zones on the basis of the following factors:

- (i) The strength and quality of the local government commitments to meet the needs identified in the five-year community empowerment plan required under RCW 43.31C.040.
- (ii) The level of private sector commitment of additional resources and contribution to the community empowerment zone.
- (iii) The potential for revitalization of the area as a result of designation as a community empowerment zone.
- (iv) Other factors the director deems necessary.

(c) The determination of the director as to the areas designated as community empowerment zones shall be final.

(4) Except as provided in RCW 43.31C.050, an area that was designated a community empowerment zone before January 1, 1996, under this section, automatically and without additional action by the local government continues its designation under this chapter.

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(5) The department may not designate additional community empowerment zones after January 1, 2004, but may amend or rescind designation of community empowerment zones in accordance with RCW 43.31C.050. [2000 c 212 § 3; 1994 sp.s. c 7 § 702; 1993 sp.s. c 25 § 401. Formerly RCW 43.63A.700.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.31C.030 Community empowerment zone—Requirements. (1) The director may not designate an area as a community empowerment zone unless that area meets the following requirements:

(a) The area must be designated by the legislative authority of the local government as an area to receive federal, state, and local assistance designed to increase economic, physical, or social activity in the area;

(b) The area must have at least fifty-one percent of the households in the area with incomes at or below eighty percent of the county's median income, adjusted for household size;

(c) The average unemployment rate for the area, for the most recent twelve-month period for which data is available must be at least one hundred twenty percent of the average unemployment rate of the county; and

(d) A five-year community empowerment plan for the area that meets the requirements of RCW 43.31C.040 must be adopted.

(2) The director may establish, by rule, such other requirements as the director may reasonably determine necessary and appropriate to assure that the purposes of this chapter are satisfied.

(3) In determining if an area meets the requirements of this section, the director may consider data provided by the United States bureau of the census from the most recent census or any other reliable data that the director determines to be acceptable for the purposes for which the data is used. [2000 c 212 § 4; 1994 sp.s. c 7 § 703; 1993 sp.s. c 25 § 402. Formerly RCW 43.63A.710.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.31C.040 Community empowerment plan—Requirements—Annual progress report. (1) The five-year community empowerment plan required under RCW 43.31C.020 shall contain information that describes the community development needs of the proposed community empowerment zone and present a strategy for meeting those needs. The plan shall address the following categories:

(a) Housing needs for all economic segments of the proposed community empowerment zone;

(b) Public infrastructure needs, such as transportation, water, sanitation, energy, and drainage and flood control;

(c) Other public facilities needs, such as neighborhood facilities or facilities for the provision of health, education, recreation, public safety, and other services;

(d) Community economic development needs, such as commercial and industrial revitalization, job creation and retention considering the unemployment and underemploy-

ment of area residents, accessibility to financial resources by area residents and businesses, investment within the area, and other related components of community economic development; and

(e) Social service needs of residents in the proposed community empowerment zone.

(2) The local government must provide a description of its strategy for meeting the needs identified in subsection (1) of this section. As part of the community empowerment zone strategy, the local government must identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of the area's needs, the local government must identify the source of funds expected to become available during the next two-year period and actions the local government will take to acquire those funds.

(3) The local government must submit an annual progress report to the department that details the extent to which the local government is working to meet the needs identified in the five-year community empowerment plan. If applicable, the progress report must also contain a discussion on the impediments to meeting the needs outlined in the five-year community empowerment plan. The department must determine the date the annual progress reports are due from each local government. [2000 c 212 § 5.]

43.31C.050 Community empowerment zones—Amendment—Termination. (1) The terms or conditions of a community empowerment zone approved under this chapter may be amended to:

(a) Alter the boundaries of the community empowerment zone; or

(b) Terminate the designation of a community empowerment zone.

(2)(a) A request for an amendment under subsection (1)(a) of this section may not be in effect until the department issues an amended designation for the community empowerment zone that approves the requested amendment. The local government must promptly file with the department a request for approval that contains information the department deems necessary to evaluate the proposed changes and its impact on the area's designation as a community empowerment zone under RCW 43.31C.030. The local government must hold at least two public hearings on the proposed changes and include the information in its request for an amendment to its community empowerment zone.

(b) The department shall approve or disapprove a proposed amendment to a community empowerment zone within sixty days of its receipt of a request under subsection (1)(a) of this section. The department may not approve changes to a community empowerment zone that are not in conformity with this chapter.

(3)(a) The termination of an area's designation as a community empowerment zone under subsection (1)(b) of this section is not effective until the department issues a finding stating the reasons for the termination, which may include lack of commitment of resources to activities in the community empowerment zone by the public, private, and community-based sectors. The local government may file an appeal to the department's findings within sixty days of the notice to terminate the area's designation. The department must notify

the local government of the results within thirty days of the filing of the appeal.

(b) A termination of an area's designation as a community empowerment zone has no effect on benefits previously extended to individual businesses. The local government may not commit benefits to a business after the effective date of the termination of an area's designation as a community empowerment zone.

(4) The department may request applications from local governments for designation as community empowerment zones under this chapter as a result of a termination of an area's designation as a community empowerment zone under this section. [2000 c 212 § 6.]

43.31C.060 Administration of chapter—Powers and duties of department. The department must administer this chapter and has the following powers and duties:

(1) To monitor the implementation of chapter 212, Laws of 2000 and submit reports evaluating the effectiveness of the program and any suggestions for legislative changes to the governor and legislature by December 1, 2000;

(2) To develop evaluation and performance measures for local governments to measure the effectiveness of the program at the local level on meeting the objectives of this chapter;

(3) To provide information and appropriate assistance to persons desiring to locate and operate a business in a community empowerment zone;

(4) To work with appropriate state agencies to coordinate the delivery of programs, including but not limited to housing, community and economic development, small business assistance, social service, and employment and training programs which are carried on in a community empowerment zone; and

(5) To develop rules necessary for the administration of this chapter. [2000 c 212 § 7.]

43.31C.070 Administration of community empowerment zone—Jurisdiction of local government—Community empowerment zone administrator. The administration of a community empowerment zone is under the jurisdiction of the local government. Each local government must, by ordinance, designate a community empowerment zone administrator for the area designated as a community empowerment zone that is within its jurisdiction. A community empowerment zone administrator must be an officer or employee of the local government. The community empowerment zone administrator is the liaison between the local government, the department, the business community, and labor and community-based organizations within the community empowerment zone. [2000 c 212 § 8.]

43.31C.900 Short title. This chapter may be known and cited as the Washington community empowerment zone act. [2000 c 212 § 9.]

43.31C.901 Conflict with federal requirements—2000 c 212. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict

and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2000 c 212 § 12.]

Chapter 43.32 RCW COUNTY ROADS DESIGN STANDARDS

Sections

- 43.32.010 Composition of committee.
43.32.020 Duties of committee.

43.32.010 Composition of committee. There is created a state design standards committee of seven members, six of which shall be appointed by the executive committee of the Washington state association of counties to hold office at its pleasure and the seventh to be the state aid engineer for the department of transportation. The members to be appointed by the executive committee of the Washington state association of counties shall be restricted to the membership of such association or to those holding the office and/or performing the functions of county engineer in any of the several counties of the state. [1982 c 145 § 4; 1971 ex.s. c 85 § 6; 1965 c 8 § 43.32.010. Prior: 1949 c 165 § 2; RRS § 6450-8.]

Design standards committee for arterial streets: Chapter 35.78 RCW.

43.32.020 Duties of committee. (1) On or before January 1, 1950, and from time to time thereafter, the design standards committee shall adopt uniform design standards for the county primary road systems.

(2) By July 1, 2012, and from time to time thereafter, the design standards committee shall adopt standards for bicycle and pedestrian facilities. [2012 c 67 § 7; 1965 c 8 § 43.32.020. Prior: 1949 c 165 § 3; RRS § 6450-8j.]

Intent—2012 c 67: See note following RCW 35.75.060.

Design standards for county roads and bridges: Chapter 36.86 RCW.

Chapter 43.33 RCW STATE FINANCE COMMITTEE

Sections

- 43.33.010 Composition of committee.
43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions.
43.33.030 Records—Administrative and clerical assistance.
43.33.040 Rules and regulations—Chair.
43.33.130 Summary of debt management activities and debt issuances.

Acquisition of highway property in advance of programmed construction, committee duties relating to: Chapter 47.12 RCW.

Bonds, notes and other evidences of indebtedness, finance committee duties: Chapter 39.42 RCW.

Committee created: RCW 43.17.070.

County held United States bonds, disposal: RCW 36.33.190.

Fiscal agencies: Chapter 43.80 RCW.

Industrial insurance, investments: RCW 51.44.100.

State depositaries: Chapter 43.85 RCW.

State investment board: Chapter 43.33A RCW.

43.33.010 Composition of committee. The state treasurer, the lieutenant governor, and the governor, ex officio,

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shall constitute the state finance committee. [1965 c 8 § 43.33.010. Prior: 1961 c 300 § 2; 1921 c 7 § 6, part; RRS § 10764, part.]

43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions. See chapter 39.58 RCW.

43.33.030 Records—Administrative and clerical assistance. The state finance committee shall keep a full and complete public record of its proceedings in appropriate books of record.

The state treasurer shall provide administrative and clerical assistance for the state finance committee. [1981 c 3 § 24; 1965 c 8 § 43.33.030. Prior: 1961 c 300 § 4; 1907 c 12 § 2; RRS § 5537.]

Additional notes found at www.leg.wa.gov

43.33.040 Rules and regulations—Chair. The state finance committee may make appropriate rules and regulations for the performance of its duties. The state treasurer shall act as chair of the committee. [2009 c 549 § 5112; 1965 c 8 § 43.33.040. Prior: 1907 c 12 § 3; RRS § 5538.]

43.33.130 Summary of debt management activities and debt issuances. The state finance committee must publish a summary of debt management activities at least annually and must also publish the results of each debt issuance in a timely manner upon conclusion of each debt issuance. The state finance committee, in its discretion, may publish these materials exclusively by electronic means on the office of the state treasurer's website if it is determined that public access to these materials is not substantially diminished. [2010 1st sp.s. c 18 § 2; 1998 c 245 § 63; 1981 c 3 § 25; 1977 ex.s. c 251 § 10.]

Additional notes found at www.leg.wa.gov

Chapter 43.33A RCW STATE INVESTMENT BOARD

Sections

- 43.33A.010 General powers and duties.
43.33A.020 Board created—Membership—Terms—Vacancies—Removal.
43.33A.025 Criminal history record checks for board staff finalist candidates.
43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties.
43.33A.035 Delegation of authority—Investments or investment properties.
43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson.
43.33A.050 Compensation of members—Travel expenses.
43.33A.060 Employment restrictions.
43.33A.070 Liability of members.
43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank.
43.33A.090 Records.
43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations.
43.33A.110 Rules and regulations—Investment policies and procedures.
43.33A.120 Examination of accounts, files, and other records.
43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee.
43.33A.135 Investment policy—Investment options.
43.33A.140 Investments—Standard of investment and management.
43.33A.150 Reports of investment activities.
43.33A.160 Funding of board—State investment board expense account.

- 43.33A.170 Commingled trust funds—Participation of funds in investments of board.
- 43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer's office.
- 43.33A.190 Self-directed investment—Board's duties (*as amended by 2016 c 39*).
- 43.33A.190 Self-directed investment—Board's duties (*as amended by 2016 c 69*).
- 43.33A.200 Creation of entities for investment purposes—Liability—Tax status.
- 43.33A.210 Assets not publicly traded—Treatment of rent and income—Management accounts—Application of this chapter and chapter 39.58 RCW.

43.33A.010 General powers and duties. Unless otherwise prescribed by law, the state investment board shall exercise all the powers and perform all duties with respect to the investment of public trust and retirement funds. [2012 c 187 § 1; 1981 c 3 § 1.]

Reviser's note: Substitute House Bill No. 1610 was enacted during the 1980 legislative session, but was vetoed. The veto was overridden by the legislature as follows: Passed the House of Representatives on January 30, 1981; passed the Senate on February 6, 1981. The bill became chapter 3, Laws of 1981.

Additional notes found at www.leg.wa.gov

43.33A.020 Board created—Membership—Terms—Vacancies—Removal. There is hereby created the state investment board to consist of fifteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and firefighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) One member who is an active member of the school employees' retirement system and has at least five years of

service credit. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(11) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority. [2002 c 303 § 1; 1985 c 195 § 1; 1981 c 219 § 1; 1981 c 3 § 2.]

Additional notes found at www.leg.wa.gov

43.33A.025 Criminal history record checks for board staff finalist candidates. (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.815, the state investment board shall require a criminal history record check for conviction records through the Washington state patrol criminal identification system, and through the federal bureau of investigation, for the purpose of conducting preemployment evaluations of each finalist candidate for a board staff position exempt from the provisions of chapter 41.06 RCW, or for any other position in which the employee will have authority for or access to: (a) Funds under the jurisdiction or responsibility of the investment board; or (b) data or security systems of the investment board or designs for such systems. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card, which shall be forwarded by the state patrol to the federal bureau of investigation.

(2) Information received by the investment board pursuant to this section shall be made available by the investment board only to board employees involved in the selection, hiring, background investigation, or job assignment of the person who is the subject of the record check, or to that subject person, and it shall be used only for the purposes of making, supporting, or defending decisions regarding the appointment or hiring of persons for these positions, or securing any necessary bonds or other requirements for such employment. Otherwise, the reports, and information contained therein, shall remain confidential and shall not be subject to the disclosure requirements of chapter 42.56 RCW.

(3) Fees charged by the Washington state patrol, or the federal bureau of investigation, for conducting these investigations and providing these reports shall be paid by the investment board. [2005 c 274 § 297; 2000 c 188 § 1; 1999 c 226 § 1.]

43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties. Trusteeship of those funds under the authority of the board is vested in the voting members of the board. The nonvoting members of the board shall advise the voting members on matters of investment policy and practices.

The board may enter into contracts necessary to carry out its powers and duties. The board may delegate any of its powers and duties to its executive director as deemed necessary for efficient administration and when consistent with the purposes of chapter 3, Laws of 1981.

Subject to guidelines established by the board, the board's executive director may delegate to board staff any of the executive director's powers and duties including, but not limited to, the power to make investment decisions and to execute investment and other contracts on behalf of the board. [1997 c 161 § 1; 1981 c 3 § 3.]

Additional notes found at www.leg.wa.gov

43.33A.035 Delegation of authority—Investments or investment properties. The board or its executive director may delegate by contract to private sector or other external advisors or managers the discretionary authority, as fiduciaries, to purchase or otherwise acquire, sell, or otherwise dispose of or manage investments or investment properties on behalf of the board, subject to investment or management criteria established by the board or its executive director. Such criteria relevant to particular investments or class of investment applicable under the board's contract with an advisor or manager must be incorporated by reference into the contract. [1997 c 161 § 2.]

43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson. (1) A quorum to conduct the business of the state investment board consists of at least six voting members. No action may be taken by the board without the affirmative vote of six members.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: PROVIDED, That the legislative members are not eligible to serve as chairperson. [2002 c 303 § 2; 1981 c 219 § 2; 1981 c 3 § 4.]

Additional notes found at www.leg.wa.gov

43.33A.050 Compensation of members—Travel expenses. Members of the state investment board who are public employees shall serve without compensation but shall suffer no loss because of absence from their regular employment. Members of the board who are not public employees shall be compensated in accordance with RCW 43.03.240. Members of the board who are not legislators shall be reimbursed for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060. Legislative members shall receive allowances provided for in RCW 44.04.120. [1984 c 287 § 80; 1981 c 3 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.33A.060 Employment restrictions. No member during the term of appointment may be employed by any (2022 Ed.)

investment brokerage or mortgage servicing firm doing business with the state investment board. A trust department of a commercial bank or trust company organized under federal or state law is not considered a mortgage servicing firm for purposes of this section. [1981 c 3 § 6.]

Additional notes found at www.leg.wa.gov

43.33A.070 Liability of members. No member of the state investment board is liable for the negligence, default, or failure of any other person or other member of the board to perform the duties of the member's office and no member of the board shall be considered or held to be an insurer of the funds or assets of any of the trust and retirement funds nor is any nonvoting member liable for actions performed with the exercise of reasonable diligence within the scope of the member's authorized activities as a member of the board. [1981 c 3 § 7.]

Additional notes found at www.leg.wa.gov

43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank. The state investment board may invest those funds which are not under constitutional prohibition in: (1) Farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture; and (2) the Washington land bank established by *chapter 31.30 RCW. [1987 c 29 § 2; 1981 c 3 § 8.]

*Reviser's note: Chapter 31.30 RCW was repealed by 1998 c 12 § 1.

Additional notes found at www.leg.wa.gov

43.33A.090 Records. The state investment board shall keep a full and complete public record of its proceedings in appropriate books of record. Within sixty days of July 1, 1981, the state investment board shall assume physical custody of all investment accounts, files, and other records of each fund placed under the investment authority of the board. [1981 c 3 § 9.]

Additional notes found at www.leg.wa.gov

43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations. The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the executive director, a confidential secretary, and all investment officers, including the deputy director for investment management, employed by the investment board shall be established by the state investment board. The investment board is authorized to maintain a

retention pool within the state investment board expense account under RCW 43.33A.160, from the earnings of the funds managed by the board, pursuant to a performance management and compensation program developed by the investment board, in order to address recruitment and retention problems and to reward performance. The compensation levels and incentive compensation for investment officers shall be limited to the average of total compensation provided by state or other public funds of similar size, based upon a biennial survey conducted by the investment board, with review and comment by the joint legislative audit and review committee. However, in any fiscal year the incentive compensation granted by the investment board from the retention pool to investment officers pursuant to this section may not exceed thirty percent. Disbursements from the retention pool shall be from legislative appropriations and shall be on authorization of the board's executive director or the director's designee.

The investment board shall provide notice to the director of financial management and the chairs of the house of representatives and senate fiscal committees of proposed changes to the compensation levels for the positions. The notice shall be provided not less than sixty days prior to the effective date of the proposed changes.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in chapter 3, Laws of 1981 shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by chapter 3, Laws of 1981 shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981. [2011 1st sp.s. c 43 § 457; 2008 c 236 § 1; 2001 c 302 § 1; 1993 c 281 § 50; 1981 c 219 § 3; 1981 c 3 § 10.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.33A.110 Rules and regulations—Investment policies and procedures. The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish investment policies and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.52 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.05 RCW. [1994 c 154 § 310; 1989 c 179 § 1; 1988 c 130 § 1; 1981 c 219 § 4; 1981 c 3 § 11.]

Additional notes found at www.leg.wa.gov

43.33A.120 Examination of accounts, files, and other records. All accounts, files, and other records of the state investment board which pertain to each retirement system are subject at any time or from time to time to such reasonable periodic, special, or other examinations by the department of retirement systems as the director of the department of retirement systems deems necessary or appropriate. [1981 c 3 § 12.]

Additional notes found at www.leg.wa.gov

43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee. The state treasurer may cause any securities in which the state investment board deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer, the federal reserve system, the designee of the state treasurer, or, at the election of the designee and upon approval of the state treasurer, the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only upon the order of the state investment board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities are vested in the actual owners of the securities, and not in the nominee. [1999 c 228 § 1; 1981 c 3 § 13.]

Additional notes found at www.leg.wa.gov

43.33A.135 Investment policy—Investment options. The state investment board has the full power to establish investment policy, develop participant investment options, and manage investment funds for the college savings program, if the committee on advanced tuition payment and college savings selects the state investment board as the investment manager pursuant to RCW 28B.95.032, and for the state deferred compensation plan, consistent with the provisions of RCW 41.50.770 and 41.50.780. The board may continue to offer the investment options provided as of June 11, 1998, until the board establishes a deferred compensation plan investment policy and adopts new investment options after considering the recommendations of the department of retirement systems. [2016 c 69 § 19; 2010 1st sp.s. c 7 § 36; 1998 c 116 § 13.]

Additional notes found at www.leg.wa.gov

43.33A.140 Investments—Standard of investment and management. The state investment board shall invest and manage the assets entrusted to it with reasonable care, skill, prudence, and diligence under circumstances then prevailing which a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an activity of like character and purpose.

The board shall:

(1) Consider investments not in isolation, but in the context of the investment of the particular fund as a whole and as part of an overall investment strategy, which should incorporate risk and return objectives reasonably suited for that fund; and

(2) Diversify the investments of the particular fund unless, because of special circumstances, the board reasonably determines that the purposes of that fund are better served without diversifying. However, no corporate fixed-income issue or common stock holding may exceed three percent of the cost or six percent of the market value of the assets of that fund. [1998 c 14 § 1; 1981 c 3 § 14.]

Additional notes found at www.leg.wa.gov

43.33A.150 Reports of investment activities. (1) The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees.

(3) At least annually, the board shall report on the board's investment activities for the higher education permanent funds to the house capital budget committee and the senate ways and means committee. [2007 c 215 § 4; 1989 c 179 § 2; 1981 c 3 § 15.]

Reviser's note: Senate Joint Resolution No. 8223 was rejected by the voters at the November 2012 election. This section has been returned to the status existing before its amendment by 2012 c 231 § 2.

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

Additional notes found at www.leg.wa.gov

43.33A.160 Funding of board—State investment board expense account. (1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established in the state treasury a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board. [1991 sp.s. c 13 § 32; 1985 c 57 § 32; 1982 c 10 § 10. Prior: 1981 c 242 § 1; 1981 c 219 § 5; 1981 c 3 § 16.]

Additional notes found at www.leg.wa.gov

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43.33A.170 Commingled trust funds—Participation of funds in investments of board. The state investment board is authorized to establish commingled trust funds in the state treasury for the implementation of specific investment programs for any combination of funds under its jurisdiction. At the discretion of the state investment board, the funds under the jurisdiction of the board may participate in the investments made by the board through state investment board commingled trust funds. The state investment board may establish accounts within any such commingled trust fund as necessary for the implementation of specific investment programs. The combining of moneys from funds located outside the state treasury with moneys from funds located within the state treasury for investment under this section shall not affect the nature, character, or purpose of a participating fund. [1999 c 227 § 1; 1982 c 58 § 1.]

43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer's office. The state investment board shall account for and report on the investments authorized by this chapter in the manner prescribed by the office of financial management under chapter 43.88 RCW.

After approval of the director of financial management, all positions, reports, documents, and office equipment along with any appropriation necessary for carrying out the functions and duties transferred shall, on July 1, 1992, be transferred from the state treasurer's office to the state investment board. All employees assigned to such classified positions to be transferred, are assigned, without any loss of rights, to the state investment board. [1992 c 232 § 905.]

Additional notes found at www.leg.wa.gov

43.33A.190 Self-directed investment—Board's duties (as amended by 2016 c 39). Pursuant to RCW 41.34.130 and 43.330.464, the state investment board shall invest all self-directed investment moneys under teachers' retirement system plan 3, the school employees' retirement system plan 3, ((and)) the public employees' retirement system plan 3, and the Washington achieving a better life experience program with full power to establish investment policy, develop investment options, and manage self-directed investment funds. [2016 c 39 § 8; 2000 c 247 § 701; 1998 c 341 § 707; 1995 c 239 § 321.]

43.33A.190 Self-directed investment—Board's duties (as amended by 2016 c 69). ((Pursuant to RCW 41.34.130,)) The state investment board shall invest all self-directed investment moneys under teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 pursuant to RCW 41.34.130 and under the college savings program, if the committee on advanced tuition payment and college savings selects the state investment board as the investment manager pursuant to RCW 28B.95.032, with full power to establish investment policy, develop investment options, and manage self-directed investment funds. [2016 c 69 § 20; 2000 c 247 § 701; 1998 c 341 § 707; 1995 c 239 § 321.]

Reviser's note: RCW 43.33A.190 was amended twice during the 2016 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Intent—Purpose—1995 c 239: See note following RCW 41.32.831.

Benefits not contractual right until date specified: RCW 41.34.100.

Additional notes found at www.leg.wa.gov

43.33A.200 Creation of entities for investment purposes—Liability—Tax status. (1) The board is authorized to create corporations under Title 23B RCW, limited liability

companies under chapter 25.15 RCW, and limited partnerships under chapter 25.10 RCW, of which it may or may not be the general partner, for the purposes of transferring, acquiring, holding, overseeing, operating, or disposing of real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange. The liability of each entity created by the board is limited to the assets or properties of that entity. No creditor or other person has any right of action against the board, its members or employees, or the state of Washington on account of any debts, obligations, or liabilities of the entity. Entities created under this section may be authorized by the board to make any investment that the board may make, including but not limited to the acquisition of: Equity interests in operating companies, the indebtedness of operating companies, and real estate.

(2) Directors, officers, and other principals of entities created under this section must be board members, board staff, or principals or employees of an advisor or manager engaged by contract by the board or the entity to manage real estate or other investment assets of the entity. Directors of entities created under this section must be appointed by the board. Officers and other principals of entities created under this section are appointed by the directors.

(3) A public corporation, limited liability company, or limited partnership created under this section has the same immunity or exemption from taxation as that of the state. The entity shall pay an amount equal to the amounts that would be paid for taxes otherwise levied upon real property and personal property to the public official charged with the collection of such real property and personal property taxes as if the property were in private ownership. The proceeds of such payments must be allocated as though the property were in private ownership. [1997 c 359 § 1.]

43.33A.210 Assets not publicly traded—Treatment of rent and income—Management accounts—Application of this chapter and chapter 39.58 RCW. Rent and other income from real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange that are acquired and being held for investment by the board or by an entity created under RCW 43.33A.200 by the board, and being managed by an external advisor or other property manager under contract, shall not be deemed income or state funds for the purposes of chapter 39.58 RCW and this title, until distributions are made to the board of such income from the advisor or manager. Bank and other accounts established by the advisor or property manager for the purpose of the management of such investment assets shall not be deemed accounts established by the state for the purpose of chapter 39.58 RCW and this title. [1997 c 359 § 2.]

Chapter 43.34 RCW CAPITOL COMMITTEE

Sections

43.34.010	Composition of committee.
43.34.015	Secretary of committee—Committee records.
43.34.040	Buildings—Erection—Improvements.
43.34.080	Capitol campus design advisory committee—Generally.
43.34.090	Building names.
43.34.100	Memorial to commemorate global war on terror.
43.34.105	Washington state global war on terror memorial account.

Capitol building lands: Chapter 79.24 RCW.

Committee created: RCW 43.17.070.

East capitol site, powers and duties concerning: RCW 79.24.500.

Housing for state offices, duties: RCW 43.82.010.

43.34.010 Composition of committee. The governor or the governor's designee, the lieutenant governor, the secretary of state, and the commissioner of public lands, ex officio, shall constitute the state capitol committee. [1997 c 279 § 1; 1979 ex.s. c 57 § 10; 1965 c 8 § 43.34.010. Prior: 1961 c 300 § 5; 1921 c 7 § 8; RRS § 10766.]

43.34.015 Secretary of committee—Committee records. The commissioner of public lands shall be the secretary of the state capitol committee, but the committee may appoint a suitable person as acting secretary thereof, and fix his or her compensation. However, all records of the committee shall be filed in the office of the commissioner of public lands. [1997 c 279 § 2; 1965 c 8 § 43.34.015. Prior: 1959 c 257 § 45; 1909 c 69 § 1; RRS § 7897. Formerly RCW 79.24.080.]

43.34.040 Buildings—Erection—Improvements. The state capitol committee may erect one or more permanent buildings; one or more temporary buildings; excavate or partially excavate for any such building or buildings; partially erect any such building or buildings; make other temporary or permanent improvements wholly or in part; upon the capitol grounds belonging to the state and known as the "Sylvester site" or "Capitol place" in Olympia, Washington. [1965 c 8 § 43.34.040. Prior: 1933 ex.s. c 34 § 1; RRS § 7915-1.]

43.34.080 Capitol campus design advisory committee—Generally. (1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of enterprise services to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the director of enterprise services:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

The director of enterprise services shall appoint the chair and vice chair and shall provide the staff and resources necessary for implementing this section. The advisory committee shall meet at least once every ninety days and at the call of the chair.

The members of the committee shall be reimbursed as provided in RCW 43.03.220 and 44.04.120.

(3) The advisory committee shall also consist of the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of

the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The advisory committee shall review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include:

(a) The process of solicitation and selection of appropriate professional design services including design-build proposals;

(b) Compliance with the capitol campus master plan and design concepts as adopted by the capitol committee;

(c) The design, siting, and grouping of state capitol facilities relative to the service needs of state government and the impact upon the local community's economy, environment, traffic patterns, and other factors;

(d) The relationship of overall state capitol facility planning to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and

(e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings.

(5) For development of the property known as the 1063 block, the committee may review the proposal selected by the department of enterprise services but must not propose changes that will affect the scope, budget, or schedule of the project. [2013 2nd sp.s. c 19 § 7015; 2011 1st sp.s. c 21 § 34; 1990 c 93 § 1.]

Effective date—2013 2nd sp.s. c 19: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 1, 2013]." [2013 2nd sp.s. c 19 § 7044.]

Additional notes found at www.leg.wa.gov

43.34.090 Building names. (1) The legislature shall approve names for new or existing buildings on the state capitol grounds based upon recommendations from the state capitol committee and the director of the department of enterprise services, with the advice of the capitol campus design advisory committee, subject to the following limitations:

(a) An existing building may be renamed only after a substantial renovation or a change in the predominant tenant agency headquartered in the building.

(b) A new or existing building may be named or renamed after:

(i) An individual who has played a significant role in Washington history;

(ii) The purpose of the building;

(iii) The single or predominant tenant agency headquartered in the building;

(iv) A significant place name or natural place in Washington;

(v) A Native American tribe located in Washington;

(vi) A group of people or type of person;

(vii) Any other appropriate person consistent with this section as recommended by the director of the department of enterprise services.

(c) The names on the facades of the state capitol group shall not be removed.

(2) The legislature shall approve names for new or existing public rooms or spaces on the west capitol campus based upon recommendations from the state capitol committee and

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the director of the department of enterprise services, with the advice of the capitol campus design advisory committee, subject to the following limitations:

(a) An existing room or space may be renamed only after a substantial renovation;

(b) A new or existing room or space may be named or renamed only after:

(i) An individual who has played a significant role in Washington history;

(ii) The purpose of the room or space;

(iii) A significant place name or natural place in Washington;

(iv) A Native American tribe located in Washington;

(v) A group of people or type of person;

(vi) Any other appropriate person consistent with this section as recommended by the director of the department of enterprise services.

(3) When naming or renaming buildings, rooms, and spaces under this section, consideration must be given to: (a) Any disparity that exists with respect to the gender of persons after whom buildings, rooms, and spaces are named on the state capitol grounds; (b) the diversity of human achievement; and (c) the diversity of the state's citizenry and history.

(4) For purposes of this section, "state capitol grounds" means buildings and land owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, the north capitol campus, the Tumwater campus, the Lacey campus, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake. [2015 c 225 § 74; 2002 c 164 § 1.]

43.34.100 Memorial to commemorate global war on terror. Any memorial established on capitol campus to commemorate the global war on terror must recognize service members who died in Operation Iraqi Freedom, Operation Enduring Freedom, and Operation New Dawn, which are classified under the umbrella term global war on terror. Any such memorial must include a component designed to reflect on the great number of active duty service members and veterans who have died by suicide after serving in these wars. The design of such a memorial must serve to honor those who are lost and provide a sacred space for healing and reflection for veterans and military families. [2022 c 191 § 12.]

Findings—Intent—2022 c 191: See note following RCW 43.60A.260.

43.34.105 Washington state global war on terror memorial account. (1) The Washington state global war on terror memorial account is created in the custody of the state treasurer. The purpose of the account is to support the establishment and maintenance of the memorial. The secretary of state may solicit and accept moneys from gifts, grants, or endowments for this purpose. All receipts from federal funds, gifts, or grants from the private sector, foundations, or other sources must be deposited into the account. Expenditures from the account may be used only for the design, siting, permitting, construction, maintenance, dedication, or creation of educational materials related to placement of this memorial on the capital campus. Only the secretary of state, or the secretary of state's designee, may authorize expenditures from the account. The account is subject to allotment procedures

under chapter 43.88 RCW, but appropriation is not required for expenditures.

(2) The secretary of state may adopt rules governing the receipt and use of these funds. [2022 c 191 § 13.]

Findings—Intent—2022 c 191: See note following RCW 43.60A.260.

Chapter 43.41 RCW

OFFICE OF FINANCIAL MANAGEMENT

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43.41.444	Shared information technology system revolving account—Contracts for administration, development, maintenance, and operations of shared information technology systems—"Shared information technology system" defined.
43.41.450	Office of financial management central service account.
43.41.455	State agency office relocation pool account.
43.41.460	Military recruitment program for veterans—Development—Report.
43.41.970	Federal requirements for receipt of federal funds.

Reviser's note: Throughout this chapter the phrase "this 1969 amendment act" or "this act" has been changed to "this chapter". The phrase also includes RCW 43.88.020, 43.88.025 and 41.06.075.

Adjustment of dollar thresholds for special purpose district per diem compensations, transmittal to office of the code reviser: RCW 35.61.150, 36.57A.050, 52.14.010, 53.12.260, 54.12.080, 57.12.010, 68.52.220, 70.44.050, 85.05.410, 85.06.380, 85.08.320, 85.24.080, 85.38.075, 86.09.283, and 87.03.460.

Assessments and charges against state lands: Chapter 79.44 RCW.

Budgeting, accounting, and reporting system, powers and duties: Chapter 43.88 RCW.

Checks and drafts, form prescribed by: RCW 43.88.160.

Classes and number of positions for agencies fixed by: RCW 43.88.160.

Corrective measures by agencies, duties to enforce: RCW 43.88.160.

Development of methods and protocols for measuring educational costs: RCW 43.41.415.

Efficiency surveys and analyses of agencies: RCW 43.88.160.

Employee training authorized: RCW 43.88.160.

Inventory of state-owned or leased facilities—Report: RCW 43.82.150.

Motor vehicle fund, distribution of amount to counties, office to furnish information: RCW 46.68.124.

Moving expenses of state officers and employees, approval by: RCW 43.03.110.

Occupational forecast—Agency consultation: RCW 50.38.030.

Pay and classification plans, review of: RCW 43.88.160.

Personal service contracts, filing with office of financial management, duties: Chapter 39.26 RCW.

Proposal of ten-year investment program for transportation investments, improvements, and preservation: RCW 47.05.030.

Regulations, duty to promulgate: RCW 43.88.160.

Regulatory fairness act, office of financial management participation: Chapter 19.85 RCW.

Reports of agencies, authority to require: RCW 43.88.160.

Reports to governor, duplication of effort or lack of coordination between agencies: RCW 43.88.160.

Review and approval of matching funds in the rural arterial program: RCW 36.79.120.

Review of highway protection and restoration contracts: RCW 47.28.170.

Review of rural arterial trust account budget: RCW 36.79.130.

State employees' retirement system, duties: RCW 41.40.048.

State facility planning and management: Chapter 43.82 RCW.

Subsistence allowance for officials and employees, director to prescribe: RCW 43.03.050.

Tort claims against state, duties: Chapter 4.92 RCW.

Transportation system policy goals, development and submittal of and reporting on objectives and performance measures: RCW 47.04.280, 47.04.285.

Warrants or checks, form prescribed by: RCW 43.88.160.

43.41.030 Purpose. The legislature finds that the need for long-range state program planning and for the short-range planning carried on through the budget process, complement each other. The biennial budget submitted to the legislature must be considered in the light of the longer-range plans and goals of the state. The effectiveness of the short-range plan presented as budget proposals, cannot be measured without being aware of these longer-range goals. Thus efficient management requires that the planning and fiscal activities of state government be integrated into a unified process. It is the purpose of this chapter to bring these functions together in a new division of the office of the governor to be called the office of financial management. [1979 c 151 § 109; 1969 ex.s. c 239 § 1.]

43.41.040 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Office" means the office of financial management.
- (2) "Director" means the director of financial management.
- (3) "Agency" means and includes every state agency, office, officer, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, The Evergreen State College, and community and technical colleges. [1993 c 500 § 4; 1979 c 151 § 110; 1969 ex.s. c 239 § 2.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.41.050 Office of financial management created—Transfer of powers, duties, and functions. There is created in the office of the governor, the office of financial management which shall be composed of the present central budget agency and the state planning, program management, and population and research divisions of the present *planning and community affairs agency. Any powers, duties and functions assigned to the central budget agency, or any state planning, program management, or population and research functions assigned to the present *planning and community affairs agency by the 1969 legislature, shall be transferred to the office of financial management. [1979 c 151 § 111; 1969 ex.s. c 239 § 3.]

***Reviser's note:** The "planning and community affairs agency" has been renamed the "department of community, trade, and economic development." The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.41.060 Director—Appointment—Salary—Vacancy—Delegation of powers and duties. The executive head of the office of financial management shall be the director, who shall be appointed by the governor with the consent of the senate, and who shall serve at the pleasure of the governor. He or she shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his or her position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he or she shall present to that body his or her nomination for the office. The director may delegate such of his or her powers, duties and functions to other officers and employees of the department as he or she may deem necessary to the fulfillment of the purposes of this chapter. [2009 c 549 § 5118; 1979 c 151 § 112; 1969 ex.s. c 239 § 4.]

43.41.070 Personnel. The director shall have the power to employ such personnel as may be necessary for the general administration of the office: PROVIDED, That, except as elsewhere specified in this chapter, such employment is in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1969 ex.s. c 239 § 5.]

43.41.080 Deputy and assistant directors. The director may appoint such deputy directors and assistant directors as shall be needed to administer the office of financial management. The officers appointed under this section and exempt from the provisions of the state civil service law by the terms of RCW 41.06.075, shall be paid salaries to be fixed

by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1979 c 151 § 113; 1969 ex.s. c 239 § 6.]

43.41.100 Director's powers and duties. The director of financial management shall:

- (1) Supervise and administer the activities of the office of financial management.
- (2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of the state budget and accounting system.
- (3) Advise the governor and the legislature with respect to matters affecting program management and planning.
- (4) Make efficiency surveys of all state departments and institutions, and the administrative and business methods pursued therein, examine into the physical needs and industrial activities thereof, and make confidential reports to the governor, recommending necessary betterments, repairs, and the installation of improved and more economical administrative methods, and advising such action as will result in a greater measure of self-support and remedies for inefficient functioning.

The director may enter into contracts on behalf of the state to carry out the purposes of this chapter; he or she may act for the state in the initiation of or participation in any multi-governmental agency program relative to the purposes of this chapter; and he or she may accept gifts and grants, whether such grants be of federal or other funds. [2009 c 549 § 5119; 1979 c 151 § 114; 1969 ex.s. c 239 § 8.]

43.41.102 Director—Contract for collection and tabulation of census block statistics. Subject to a specific appropriation for that purpose, the director of financial management is hereby authorized and directed to contract with the United States bureau of census for collection and tabulation of block statistics in any or all cities and towns. [1979 c 151 § 115; 1977 ex.s. c 128 § 5.]

Additional notes found at www.leg.wa.gov

43.41.104 Settlement and payment of accounts—Duty to require. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(5) as now or hereafter amended, the director of financial management shall require all persons who have received any moneys belonging to the state and have not accounted therefor, to settle their accounts and make payment thereof. [1979 c 151 § 116; 1977 ex.s. c 144 § 10.]

***Reviser's note:** RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (5) to subsection (6).

43.41.106 Settlement and payment of accounts—Authority to require testimony and evidence. The director of financial management may, in his or her discretion, require any person presenting an account for settlement to be sworn before him or her, and to answer, orally or in writing, as to any facts relating to it. [2009 c 549 § 5120; 1979 c 151 § 117; 1977 ex.s. c 144 § 11.]

43.41.109 "Undue hardship"—Defined by rule. The director of the office of financial management shall by rule

establish a definition of "undue hardship" for the purposes of RCW 1.16.050. [2014 c 168 § 2.]

43.41.110 Powers and duties of office of financial management. The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

(9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

(10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

(11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

(12) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

(13) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds. [2011 1st sp.s. c 43 § 510; 2002 c 332 § 23; 1981 2nd ex.s. c 4 § 13; 1979 c 10 § 3. Prior: 1977 ex.s. c 110 § 4; 1977 ex.s. c 25 § 6; 1969 ex.s. c 239 § 11.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—Effective date—2002 c 332: See notes following RCW 43.19.760.

Additional notes found at www.leg.wa.gov

43.41.113 Personnel policy and application of civil service laws. (1) The office of financial management shall direct and supervise the personnel policy and application of the civil service laws, chapter 41.06 RCW.

(2) The director or the director's designee has the authority and shall perform the functions as prescribed in chapter 41.06 RCW, or as otherwise prescribed by law.

(3) The director may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the director is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The director shall prescribe standards and guidelines for the performance of delegated activities. If the director determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities. [2015 3rd sp.s. c 1 § 321; 2011 1st sp.s. c 43 § 430.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.41.120 Advisory or coordinating councils. The director or the governor may establish such additional advisory or coordinating councils as may be necessary to carry out the purposes of this chapter. Members of such councils shall serve at the pleasure of the governor. They shall receive no compensation for their services, but shall be reimbursed for travel expenses while engaged in business of the councils in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 114; 1969 ex.s. c 239 § 12.]

Additional notes found at www.leg.wa.gov

43.41.160 State health care cost containment policies.

(1) It is the purpose of this section to ensure implementation and coordination of chapter 70.14 RCW as well as other legislative and executive policies designed to contain the cost of health care that is purchased or provided by the state. In order to achieve that purpose, the director may:

(a) Establish within the health care authority a health care cost containment program in cooperation with all state agencies;

(b) Implement lawful health care cost containment policies that have been adopted by the legislature or the governor, including appropriation provisions;

(c) Coordinate the activities of all state agencies with respect to health care cost containment policies;

(d) Study and make recommendations on health care cost containment policies;

(e) Monitor and report on the implementation of health care cost containment policies;

(f) Appoint a health care cost containment technical advisory committee that represents state agencies that are involved in the direct purchase, funding, or provision of health care; and

(g) Engage in other activities necessary to achieve the purposes of this section.

(2) All state agencies shall cooperate with the director in carrying out the purpose of this section. [2011 1st sp.s. c 15 § 70; 1986 c 303 § 11.]

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Health care authority: Chapter 41.05 RCW.

43.41.170 Budgeting process—Agencies implementing energy conservation to retain cost savings. The office of financial management shall ensure that to the extent possible the budget process shall allow state agencies implementing energy conservation to retain the resulting cost savings for other purposes, including further energy conservation. [1989 c 11 § 15; 1986 c 325 § 3.]

Findings—1986 c 325: "The legislature finds that:

(1) Capital investments in energy conservation in buildings can produce significant reductions in energy use, reducing the need to import or extract fossil fuels and lowering the cost of operating buildings.

(2) The state of Washington has an obligation to operate state buildings efficiently and to implement all cost-effective energy conservation measures so that citizens are assured that public funds are spent wisely and so that citizens have an example of the savings possible from energy conservation.

(3) The state has completed energy consumption and walk-through surveys of its buildings and other facilities and has established a schedule for technical assistance studies which is the basis for implementing energy conservation measure installations to meet the milestones in RCW 43.19.680. However, there is uncertainty that the milestones will be met.

(4) The potential savings from energy conservation can be more readily realized by explicitly considering conservation measures and procedures in the state's budgeting and long-range planning process." [1986 c 325 § 1.]

Additional notes found at www.leg.wa.gov

43.41.180 Electronic funds and information transfer—State agency use. (1) The office of financial management is authorized to approve the use of electronic and other technological means to transfer both funds and information whenever economically feasible, to eliminate paper documentation wherever possible, and to provide greater fiscal responsibility. This authorization includes but is not limited to the authority to approve use of electronic means to transfer payroll, vendor payments, and benefit payments and acceptance of credit cards, debit cards, and other consumer debt instruments for payment of taxes, licenses, and fees. The office of financial management shall adopt rules under RCW 43.41.110(13) to specify the manner in which electronic and other technological means, including credit cards, are available to state agencies.

(2) No state agency may use electronic or other technological means, including credit cards, without specific continuing authorization from the office of financial management. [1993 c 500 § 2.]

Finding—1993 c 500: "The legislature finds that:

(1) Effective and efficient management of the state's cash resources requires expeditious revenue collection, aggregation, and investment of available balances and timely payments;

(2) The use of credit cards, debit cards, and electronic transfers of funds and information are customary and economical business practices to improve cash management that the state should consider and use when appropriate;

(3) Statutory changes are necessary to aid the state in complying with the federal cash management improvement act of 1990; and

(4) The policies, procedures, and practices of cash management should be reviewed and revised as required to ensure that the state achieves the most effective cash management possible." [1993 c 500 § 1.]

Additional notes found at www.leg.wa.gov

43.41.260 Monitoring enrollee level in basic health plan and medicaid caseload of children—Funding levels adjustment. The health care authority and the office of financial management shall together monitor the enrollee level in the basic health plan and the medicaid caseload of children. The office of financial management shall adjust the funding levels by interagency reimbursement of funds

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between the basic health plan and medicaid and adjust the funding levels for the health care authority to maximize combined enrollment. [2011 1st sp.s. c 15 § 71; 2009 c 479 § 28; 1995 c 265 § 21.]

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Additional notes found at www.leg.wa.gov

43.41.270 Natural resource-related and environmentally based grant and loan programs—Administration and monitoring assistance. (1) The office of financial management shall assist natural resource-related agencies in developing outcome-focused performance measures for administering natural resource-related and environmentally based grant and loan programs. These performance measures are to be used in determining grant eligibility, for program management and performance assessment.

(2) The office of financial management and the recreation and conservation office shall assist natural resource-related agencies in developing recommendations for a monitoring program to measure outcome-focused performance measures required by this section. The recommendations must be consistent with the framework and coordinated monitoring strategy developed by the monitoring oversight committee established in *RCW 77.85.210.

(3) Natural resource agencies shall consult with grant or loan recipients including local governments, tribes, nongovernmental organizations, and other interested parties, and report to the office of financial management on the implementation of this section.

(4) For purposes of this section, "natural resource-related agencies" include the department of ecology, the department of natural resources, the department of fish and wildlife, the state conservation commission, the recreation and conservation funding board, the salmon recovery funding board, and the public works board within the department of commerce.

(5) For purposes of this section, "natural resource-related environmentally based grant and loan programs" includes the conservation reserve enhancement program; dairy nutrient management grants under chapter 90.64 RCW; state conservation commission water quality grants under chapter 89.08 RCW; coordinated prevention grants, public participation grants, and remedial action grants under RCW 70A.305.190; water pollution control facilities financing under chapter 70A.135 RCW; aquatic lands enhancement grants under RCW 79.105.150; habitat grants under the Washington wildlife and recreation program under RCW 79A.15.040; salmon recovery grants under chapter 77.85 RCW; and the public works trust fund program under chapter 43.155 RCW. The term also includes programs administered by the department of fish and wildlife related to protection or recovery of fish stocks which are funded with moneys from the capital budget. [2020 c 20 § 1050; 2009 c 345 § 12. Prior: 2007 c 444 § 7; 2007 c 241 § 5; 2001 c 227 § 2.]

*Reviser's note: RCW 77.85.210 was repealed by 2005 c 309 § 10.

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—Intent—2001 c 227: "The legislature finds that the amount of overall requests for funding for natural resource-related programs in the

capital budget has been steadily growing. The legislature also finds that there is an increasing interest by the public in examining the performance of the projects and programs to determine the return on their investments and that a coordinated and integrated response by state agencies will allow for better targeting of resources. The legislature further finds that there is a need to improve the data and the integration of data that is collected by state agencies and grant and loan recipients in order to better measure the outcomes of projects and programs. The legislature intends to begin implementing the recommendations contained in the joint legislative audit and review committee's report number 01-1 on investing in the environment in order to improve the efficiency, effectiveness, and accountability of these natural resource-related programs funded in the state capital budget." [2001 c 227 § 1.]

43.41.275 State agency employment—Disability employment—Reporting requirements. (1) By January 31st of each year, state agencies employing one hundred or more people must submit the report described in subsection (2) of this section to the human resources director, with copies to the director of the department of social and health services' division of vocational rehabilitation and the governor's disability employment task force.

(2) The report must include the following information:

(a) The number of employees from the previous calendar year;

(b) The number of employees classified as individuals with disabilities;

(c) The number of employees that separated from the state agency the previous year;

(d) The number of employees that were hired by the state agency the previous year;

(e) The number of employees hired from the division of vocational rehabilitation services and from the department of the services for the blind the previous year;

(f) The number of planned hires for the current year; and

(g) Opportunities for internships for the department of social and health services' division of vocational rehabilitation and developmental disabilities administration, and the department of the services for the blind client placement, leading to an entry-level position placement upon successful completion for the current year. [2015 c 204 § 3.]

Short title—2015 c 204: "This act may be known and cited as the state disability employment parity act." [2015 c 204 § 1.]

Findings—Intent—2015 c 204: "The legislature finds that eleven percent of working age adults and thirteen percent of the state's total population consists of persons with disabilities, that persons with disabilities suffer significantly higher rates of unemployment and underemployment than in the general population, and that representation of disabled persons in the state workforce has declined in recent years, but has increased during the last year. The legislature further finds that there is no policy similar to Schedule A in the federal civil service system for priority hiring of persons with disabilities. Therefore, the legislature intends to increase the hiring of persons with disabilities in the state workforce." [2015 c 204 § 2.]

43.41.391 K-20 network—Duty to govern and oversee technical design, implementation, and operation. (1) The office has the duty to govern and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; and resolving user/provider disputes.

(2) The office has the following powers and duties:

(a) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(b) To ensure that the goals and measurable objectives of the network are the basis for any decisions or recommendations regarding the technical development and operation of the network;

(c) To adopt, modify, and implement policies to facilitate network development, operation, and expansion. Such policies may include but need not be limited to the following issues: Quality of educational services; access to the network by recognized organizations and accredited institutions that deliver educational programming, including public libraries; prioritization of programming within limited resources; prioritization of access to the system and the sharing of technological advances; network security; identification and evaluation of emerging technologies for delivery of educational programs; future expansion or redirection of the system; network fee structures; and costs for the development and operation of the network;

(d) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the director of the consolidated technology services agency's recommendations on (i) any state funding requested for network transport and equipment, distance education facilities and hardware or software specific to the use of the network, and proposed new network end sites, (ii) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (iii) charges to nongovernmental entities connected to the network;

(e) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(f) To establish by rule acceptable use policies governing user eligibility for participation in the K-20 network, acceptable uses of network resources, and procedures for enforcement of such policies. The office shall set forth appropriate procedures for enforcement of acceptable use policies, that may include suspension of network connections and removal of shared equipment for violations of network conditions or policies. The office shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use. [2015 3rd sp.s. c 1 § 214; 2011 1st sp.s. c 43 § 718. Formerly RCW 43.41A.085.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.41.392 K-20 operations cooperative—Maintained by office. The office shall maintain, in consultation with the K-20 network users, the K-20 operations cooperative, which shall be responsible for day-to-day network management, technical network status monitoring, technical problem response coordination, and other duties as agreed to by the office and the educational sectors. Funding for the K-20 operations cooperative shall be provided from the education technology revolving fund under *RCW 43.41A.105. [2011 1st sp.s. c 43 § 719. Formerly RCW 43.41A.090.]

*Reviser's note: RCW 43.41A.105 was recodified as RCW 43.41.399 pursuant to 2015 3rd sp.s. c 1 § 222.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.41.393 Technical plan of the K-20 telecommunications system and ongoing system enhancements—Contents. The office, in conjunction with the K-20 network users, shall maintain a technical plan of the K-20 telecommunications system and ongoing system enhancements. The office shall ensure that the technical plan adheres to the goals and objectives established under RCW 43.105.054. The technical plan shall provide for:

(1) A telecommunications backbone connecting educational service districts, the main campuses of public baccalaureate institutions, all of the campuses of public research institutions, and the main campuses of community colleges and technical colleges.

(2)(a) Connection to the K-20 network by entities that include, but need not be limited to: School districts, public higher education off-campus and extension centers, and campuses of community colleges and technical colleges, as prioritized by the chief information officer; (b) distance education facilities and components for entities listed in this subsection and subsection (1) of this section; and (c) connection for independent nonprofit institutions of higher education, provided that:

(i) The office and each independent nonprofit institution of higher education to be connected agree in writing to terms and conditions of connectivity. The terms and conditions shall ensure, among other things, that the provision of K-20 services does not violate Article VIII, section 5 of the state Constitution and that the institution shall adhere to K-20 network policies; and

(ii) The office determines that inclusion of the independent nonprofit institutions of higher education will not significantly affect the network's eligibility for federal universal service fund discounts or subsidies.

(3) Subsequent phases may include, but need not be limited to, connections to public libraries, state and local governments, community resource centers, and the private sector. [2017 c 52 § 14; 2015 3rd sp.s. c 1 § 215; 2011 1st sp.s. c 43 § 720. Formerly RCW 43.41A.095.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.41.394 Oversight of technical aspects of K-20 network. (1) In overseeing the technical aspects of the K-20 network, the office is not intended to duplicate the statutory responsibilities of the student achievement council, the superintendent of public instruction, the state librarian, or the governing boards of the institutions of higher education.

(2) The office may not interfere in any curriculum or legally offered programming offered over the K-20 network.

(3) The responsibility to review and approve standards and common specifications for the K-20 network remains the responsibility of the office under *RCW 43.41A.025.

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. Except as set forth in *RCW

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43.41A.025(2)(f), the office may recommend, but not require, revisions to the superintendent's telecommunications plans. [2012 c 229 § 586; 2011 1st sp.s. c 43 § 721. Formerly RCW 43.41A.100.]

*Reviser's note: RCW 43.41A.025 was recodified as RCW 43.105.054 pursuant to 2015 3rd sp.s. c 1 § 221. RCW 43.41A.025 was also amended by 2015 3rd sp.s. c 1 § 108, changing subsection (2)(f) to subsection (2)(e).

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.41.399 Education technology revolving fund. (1) The education technology revolving fund is created in the custody of the state treasurer. All receipts from billings under subsection (2) of this section must be deposited in the revolving fund. Only the director or the director's designee may authorize expenditures from the fund. The revolving fund shall be used to pay for K-20 network operations, transport, equipment, software, supplies, and services, maintenance and depreciation of on-site data, and shared infrastructure, and other costs incidental to the development, operation, and administration of shared educational information technology services, telecommunications, and systems. The revolving fund shall not be used for the acquisition, maintenance, or operations of local telecommunications infrastructure or the maintenance or depreciation of on-premises video equipment specific to a particular institution or group of institutions.

(2) The revolving fund and all disbursements from the revolving fund are subject to the allotment procedure under chapter 43.88 RCW, but an appropriation is not required for expenditures. The office shall, subject to the review and approval of the office of financial management, establish and implement a billing structure for network services identified in subsection (1) of this section.

(3) The office shall charge those public entities connected to the K-20 telecommunications system under RCW 43.41.393 an annual copayment per unit of transport connection as determined by the legislature after consideration of the board's recommendations. This copayment shall be deposited into the revolving fund to be used for the purposes in subsection (1) of this section. It is the intent of the legislature to appropriate to the revolving fund such moneys as necessary to cover the costs for transport, maintenance, and depreciation of data equipment located at the individual public institutions, maintenance and depreciation of the K-20 network backbone, and services provided to the network under RCW 43.41.391. [2015 3rd sp.s. c 1 § 216; 2011 1st sp.s. c 43 § 722; 2004 c 276 § 910; 1999 c 285 § 10; 1997 c 180 § 1. Formerly RCW 43.41A.105, 43.105.835, 28D.02.065.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.41.400 Education data center. (1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative evaluation and accountability program committee,

conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of children, youth, and families, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the student achievement council, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

(c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

(d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Track enrollment and outcomes through the public centralized higher education enrollment system;

(g) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs;

(h) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system;

(i) Prepare an annual report on the educational and workforce outcomes of youth in and released from institutional education facilities as defined in RCW 28A.190.005, using data disaggregated by age, and by ethnic categories and racial subgroups in accordance with RCW 28A.300.042. The annual report required by this subsection (2)(i) must be provided to the office of the superintendent of public instruction in a manner that is suitable for compliance with RCW 28A.190.110; and

(j) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(3) The department of children, youth, and families, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, student achievement council, public four-year institutions of higher education, department of social and health services, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. The education data center shall also develop data-sharing and research agreements with the administrative office of the courts to conduct research on educational and workforce outcomes using data maintained under RCW 13.50.010(12) related to juveniles. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution. [2021 c 164 § 15; 2017 3rd sp.s. c 6 § 223; 2016 c 72 § 108; 2012 c 229 § 585; 2009 c 548 § 201; 2007 c 401 § 3.]

Findings—Intent—2021 c 164: See note following RCW 28A.190.005.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Finding—Intent—2016 c 72: See note following RCW 28A.600.015.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Intent—2009 c 548: See RCW 28A.150.1981.

Finding—2009 c 548: See note following RCW 28A.410.270.

Intent—Finding—2009 c 548: See note following RCW 28A.305.130.

Findings—2007 c 401: See note following RCW 28A.300.500.

43.41.405 K-12 data—Securing federal funds. The education data center and the superintendent of public instruction shall take all actions necessary to secure federal funds to implement RCW 43.41.400, 28A.655.210, and 28A.300.507. [2009 c 548 § 204.]

Intent—2009 c 548: See RCW 28A.150.1981.

Finding—2009 c 548: See note following RCW 28A.410.270.

Intent—Finding—2009 c 548: See note following RCW 28A.305.130.

43.41.410 State support for students at institutions of higher education—Information. The education data center in consultation with institutions of higher education as defined in RCW 28B.10.016 shall annually develop information on the approximate amount of state support that students receive. For students at state-supported colleges and universities, the information must include the approximate level of support received by students in each tuition category. That information may include consideration of the following: Expenditures included in the educational cost formula; revenue forgiven from waived tuition and fees; state-funded financial aid awarded to students at public institutions; and all or a portion of appropriated amounts not reflected in the educational cost formula for institutional programs and services that may affect or enhance the educational experience of students at a particular institution. For students attending a private college, university, or proprietary school, the information shall include the amount of state-funded financial aid awarded to students attending the institution. [2012 c 229 § 301.]

43.41.415 Development of methods and protocols for measuring educational costs—Reports. (1) The education data center, in consultation with the house of representatives and senate committees responsible for higher education, the respective fiscal committees of the house of representatives and senate, the office of financial management, the state board for community and technical colleges, and the state institutions of higher education, shall develop standardized methods and protocols for measuring the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges, including but not limited to the costs of instruction, costs to provide degrees in specific fields, and costs for precollege remediation.

(2) The institutions of higher education shall participate in the development of cost study methods and shall provide all necessary data in a timely fashion consistent with the protocols developed.

(3) Beginning December 1, 2012, and each December 1st thereafter, the center must provide cost study reports intended to meet the information needs of the governor's office and the legislature and the requirements of RCW 43.41.410. [2012 c 229 § 303; 2011 1st sp.s. c 11 § 105; 2004 c 275 § 15; 1995 1st sp.s. c 9 § 7; 1992 c 231 § 5; 1989 c 245 § 3. Prior: 1985 c 390 § 16; 1985 c 370 § 65; 1982 1st ex.s. c 37 § 16; 1981 c 257 § 3; 1977 ex.s. c 322 § 7. Formerly RCW 28B.76.310, 28B.15.070.]

Intent—2011 1st sp.s. c 11: See note following RCW 28B.76.020.

Intent—Purpose—Effective date—1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Additional notes found at www.leg.wa.gov

43.41.420 Undergraduate and graduate educational costs—Reports to regents and trustees. The education data center must determine and report on amounts constituting undergraduate and graduate educational costs to the several boards of regents and trustees for the state institutions of higher education by November 10th of each even-numbered year. [2012 c 229 § 304.]

43.41.425 Program to certify employment for public service loan forgiveness—Awareness materials—State-wide initiative. (1) The office shall:

(a) Develop a program for state agencies to certify employment for the purposes of the public service loan forgiveness program by July 1, 2023.

(b) Assist the student loan advocate in creating and distributing materials designed to increase awareness of the public service loan forgiveness program set forth in *section 1 of this act.

(c) Collaborate with the student achievement council, the employment security department, the department of retirement systems, nonprofit entities, local government representatives, and other public service employers in developing a statewide initiative to improve access and remove barriers to the public service loan forgiveness program for all public service employees. The program established for state agencies in this section and the certification process in RCW 41.04.045 may be considered in the development of the initiative. A plan for a statewide initiative must be developed and submitted to the higher education committees of the legislature by December 1, 2024, in compliance with RCW 43.01.036.

(2) For purposes of this section, the definitions in this subsection apply:

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the United States department of education that corresponds to the information required for the public service loan forgiveness form, as allowed by the United States department of education.

(b) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(c) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(d) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the leg-

islature, institutions of higher education, school districts, and educational service districts. [2022 c 248 § 3.]

***Reviser's note:** The reference to section 1 of this act appears to be erroneous. RCW 28B.77.009 was apparently intended.

Intent—Effective date—2022 c 248: See notes following RCW 28B.77.009.

43.41.430 Information technology investment pool—Information technology projects—Reports. (1) Subject to funds appropriated for this specific purpose, the office of financial management may establish an information technology investment pool and may enter into financial contracts for the acquisition of information technology projects for state agencies. Information technology projects funded under this section must meet the following requirements:

(a) The project begins or continues replacement of information technology systems with modern and more efficient information technology systems;

(b) The project improves the ability of an agency to recover from major disaster; or

(c) The project provides future savings and efficiencies for an agency through reduced operating costs, improved customer service, or increased revenue collections.

(2) Preference for project approval under this section must be given to an agency that has prior project approval from the office of the chief information officer and an approved business plan, and the primary hurdle to project funding is the lack of funding capacity.

(3) The office of financial management with assistance from the office of the chief information officer shall report to the governor and the fiscal committees of the legislature by November 1st of each year on the status of distributions and expenditures on information technology projects and improved statewide or agency performance results achieved by project funding. [2013 2nd sp.s. c 33 § 5.]

43.41.433 Information technology investment revolving account. (1) The information technology investment revolving account is created in the custody of the state treasurer. All receipts from legislative appropriations and transfers must be deposited into the account. Only the director of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Any residual balance of funds remaining in the information technology investment revolving account created in section 705, chapter 4, Laws of 2015 3rd sp. sess. and reenacted in subsection (1) of this section shall be transferred to the information technology investment revolving account created in subsection (1) of this section after June 30, 2017. [2018 c 299 § 901; 2017 3rd sp.s. c 1 § 950.]

Effective date—2018 c 299: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 27, 2018]." [2018 c 299 § 927.]

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

43.41.435 Enumeration data used for population estimates—Destruction. The office must destroy enumeration data collected under RCW 35.13.260, 35A.14.700,

36.13.030, and chapter 43.62 RCW after it is used to produce the required population estimates. [2014 c 14 § 2.]

43.41.440 Statewide information technology system development revolving account—Contracts for enterprise information technology systems—"Enterprise information technology system" defined. (1) The statewide information technology system development revolving account is created in the custody of the state treasurer. All receipts from legislative appropriations and assessments to agencies for the development and acquisition of enterprise information technology systems must be deposited into the account. Moneys in the account may be spent only after appropriation. The account must be used solely for the development and acquisition of enterprise information technology systems that are consistent with the enterprise-based strategy established by the consolidated technology services agency in RCW 43.105.025. Expenditures from the account may not be used for maintenance and operations of enterprise information technology systems. The account may be used for the payment of salaries, wages, and other costs directly related to the development and acquisition of enterprise information technology systems.

(2) All payment of principal and interest on debt issued for enterprise information technology systems must be paid from the account.

(3) The office may contract for the development or acquisition of enterprise information technology systems.

(4) For the purposes of this section and RCW 43.41.442, "enterprise information technology system" means an information technology system that serves agencies with a certain business need or process that are required to use the system unless the agency has received a waiver from the state chief information officer. "Enterprise information technology system" also includes projects that are of statewide significance including enterprise-level solutions, enterprise resource planning, and shared services initiatives. [2015 3rd sp.s. c 1 § 502.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

43.41.442 Statewide information technology system maintenance and operations revolving account—Contracts for administration, maintenance, and operations of enterprise information technology systems. (1) The statewide information technology system maintenance and operations revolving account is created in the custody of the state treasurer. All receipts from fees, charges for services, and assessments to agencies for the maintenance and operations of enterprise information technology systems must be deposited into the account. The account must be used solely for the maintenance and operations of enterprise information technology systems.

(2) Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditure.

(3) The office may contract with the consolidated technology services agency for the billing of fees, charges for services, and assessments to agencies, and for the maintenance and operations of enterprise information technology systems.

(4) "Enterprise information technology system" has the definition in RCW 43.41.440. [2015 3rd sp.s. c 1 § 503.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

43.41.444 Shared information technology system revolving account—Contracts for administration, development, maintenance, and operations of shared information technology systems—"Shared information technology system" defined. (1) The shared information technology system revolving account is created in the custody of the state treasurer. All receipts from fees, charges for services, and assessments to agencies for shared information technology systems must be deposited into the account.

(2) Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditure.

(3) The office may contract with the consolidated technology services agency for the billing of fees, charges for services, and assessments to agencies, and for the development, maintenance, and operations of shared information technology systems.

(4) For the purposes of this section, "shared information technology system" means an information technology system that is available to, but not required for use by, agencies. [2015 3rd sp.s. c 1 § 504.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

43.41.450 Office of financial management central service account. The office of financial management central service account is created in the state treasury. The account is to be used by the office as a revolving fund for the payment of salaries, wages, and other costs required for the operation and maintenance of statewide budgeting, accounting, forecasting, and functions and activities in the office. All receipts from agency fees and charges for services collected from public agencies must be deposited into the account. The director shall fix the terms and charges to agencies based on each agency's share of the office statewide cost allocation plan for federal funds. Moneys in the account may be spent only after appropriation. During the 2017-2019 and 2021-2023 fiscal biennia, the account may be used as a revolving fund for the payment of salaries, wages, and other costs related to policy activities in the office. The legislature intends to continue the use of the revolving fund for policy activities during the 2019-2021 biennium. [2022 c 297 § 953; 2017 3rd sp.s. c 1 § 968; 2016 sp.s. c 36 § 927.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

43.41.455 State agency office relocation pool account. The state agency office relocation pool account is created in the custody of the state treasurer. All receipts from legislative appropriations and transfers must be deposited in the account. Expenditures from the account may be used only for state agency costs related to relocation of state agency offices. Authorized expenditures include lease payments and costs of

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relocation, equipment, furniture, and tenant improvements. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2017 3rd sp.s. c 1 § 949.]

Effective date—2017 3rd sp.s. c 1: "Except for section 990 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 30, 2017]." [2017 3rd sp.s. c 1 § 1903.]

43.41.460 Military recruitment program for veterans—Development—Report. (1) The office shall develop a military recruitment program that targets veterans and gives them credit for their knowledge, skills, and leadership abilities. In developing the program, the office shall consult with the department of enterprise services, department of veteran[s] affairs, the state military transition council, the veterans employee resource group, and other interested stakeholders. Program development must include, but is not limited to, identifying: (a) Public and private military recruitment programs and ways those programs can be used in Washington; (b) similar military and state job classes and develop a system to provide veterans with experience credit for similar work; and (c) barriers to state employment and opportunities to better utilize veterans experience.

(2) The office shall report to the legislature with a draft plan by January 1, 2018, that includes draft bill language if necessary. [2017 c 192 § 4.]

Findings—2017 c 192: "The legislature finds that:

(1) Washington state provides a stated preference for hiring veterans and provides a scoring preference for hiring and promotional opportunities to veterans in the form of enhanced test scores;

(2) Few agencies outside of law enforcement use tests in hiring or promotion;

(3) Veterans have experience that is broader than law enforcement and the state can benefit by recruiting people with this experience;

(4) Veterans leave service with experience in transportation, teaching and education, logistics, computer technology, health care, media and communications, construction and engineering, and administrative support;

(5) Many state agencies and other public employers are struggling to fill and retain employees in key positions;

(6) Many public and private employers have developed veteran hiring and recruitment programs that take advantage of the broad experience that veterans bring to the job market." [2017 c 192 § 3.]

Findings—2017 c 192: See note following RCW 43.60A.100.

43.41.970 Federal requirements for receipt of federal funds. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. No such ruling shall affect the operation of the remainder of this chapter. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1969 ex.s. c 239 § 20.]

Chapter 43.42 RCW
OFFICE OF REGULATORY ASSISTANCE

Sections

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43.42.005 Findings—Intent. (1) The legislature finds that: The health and safety of its citizens and environment are of vital interest to the state's long-term quality of life; Washington state is a national leader in protecting its environment; and Washington state has a vibrant and diverse economy that is dependent on the state maintaining high environmental standards. Further, the legislature finds that a complex and confusing network of environmental and land use laws and business regulations can create obstacles to sustainable growth.

It is the intent of the legislature to promote accountability, timeliness, and predictability for citizens, business, and state, federal, and local permitting agencies, and to provide information and assistance on the regulatory process through the creation of the office of regulatory assistance in the governor's office.

(2) The office of regulatory assistance is created to work to continually improve the function of environmental and business regulatory processes by identifying conflicts and overlap in the state's rules, statutes, and operational practices; the office is to provide project proponents and business owners with active assistance for all permitting, licensing, and other regulatory procedures required for completion of specific projects; and the office is to ensure that citizens, businesses, and local governments have access to, and clear information regarding, regulatory processes for permitting and business regulation, including state rules, permit and license requirements, and agency rule-making processes.

(3) The legislature declares that the purpose of this chapter is to provide direction, practical resources, and a range of innovative and optional service delivery options for improving the regulatory process and for providing assistance through the regulatory process on individual projects in furtherance of the state's goals of governmental transparency and accountability.

(4) The legislature intends that establishing an office of regulatory assistance will provide these services without abrogating or limiting the authority of any agency to make decisions on permits, licenses, regulatory requirements, or agency rule making. The legislature further intends that the office of regulatory assistance shall have authority to provide services but shall not have any authority to make decisions on

permits. [2010 c 162 § 1; 2009 c 97 § 1; 2007 c 94 § 1; 2003 c 71 § 1; 2002 c 153 § 1.]

Additional notes found at www.leg.wa.gov

43.42.010 Office created—Appointment of director—Duties. (1) The office of regulatory assistance is created in the office of financial management and must be administered by the office of the governor to help improve the regulatory system and assist citizens, businesses, and project proponents.

(2) The governor must appoint a director. The director may employ a deputy director and a confidential secretary and such staff as are necessary, or contract with another state agency pursuant to chapter 39.34 RCW for support in carrying out the purposes of this chapter.

(3) The office must offer to:

(a) Act as the central point of contact for the project proponent in communicating about defined issues;

(b) Conduct project scoping as provided in RCW 43.42.050;

(c) Verify that the project proponent has all the information needed to correctly apply for all necessary permits;

(d) Provide general coordination services;

(e) Coordinate the efficient completion among participating agencies of administrative procedures, such as collecting fees or providing public notice;

(f) Maintain contact with the project proponent and the permit agencies to promote adherence to agreed schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions;

(h) Coordinate, to the extent practicable, with relevant federal permit agencies and tribal governments;

(i) Facilitate meetings;

(j) Manage a fully coordinated permit process, as provided in RCW 43.42.060; and

(k) Help local jurisdictions comply with the requirements of chapter 36.70B RCW.

(4) The office must also:

(a) Provide information to local jurisdictions about best permitting practices, methods to improve communication with, and solicit early involvement of, state agencies when needed, and effective means of assessing and communicating expected project timelines and costs;

(b) Maintain and furnish information as provided in RCW 43.42.040;

(c) Act as the central entity to collaborate with and provide support to state agencies in meeting the requirements of the regulatory fairness act, chapter 19.85 RCW. Support must include, but is not limited to:

(i) Providing online guidance and tools. Online guidance and tools may include templates and resources to assist agency employees with consistent compliance with the regulatory fairness act, chapter 19.85 RCW. In providing online guidance and tools the office must consult the office of the attorney general. The office will make the online guidance and tools available by December 31, 2017;

(ii) Providing access to available data for agencies to complete cost calculations pursuant to chapter 19.85 RCW; and

(iii) Facilitating sharing of information among agencies and between agencies and business associations;

(d) Provide the following by September 1, 2009, and biennially thereafter, to the governor and the appropriate committees of the legislature:

(i) A performance report including:

(A) Information regarding use of the office's voluntary cost-reimbursement services as provided in RCW 43.42.070;

(B) The number and type of projects or initiatives where the office provided services including the key agencies with which the office partnered;

(C) Specific information on any difficulty encountered in providing services or implementing programs, processes, or assistance tools; and

(D) Trend reporting that allows comparisons between statements of goals and performance targets and the achievement of those goals and targets; and

(ii) Recommendations on system improvements including, but not limited to, recommendations on improving environmental permitting by making it more time efficient and cost-effective for all participants in the process. [2017 c 53 § 3; 2012 c 196 § 1; 2011 c 149 § 2; 2009 c 97 § 4. Prior: 2007 c 231 § 5; 2007 c 94 § 2; 2003 c 71 § 2; 2002 c 153 § 2.]

Findings—Recommendations—Reports encouraged—2007 c 231:
See note following RCW 43.155.070.

Additional notes found at www.leg.wa.gov

43.42.020 Operating principle—Providing information regarding permits. (1) Principles of accountability and transparency shall guide the office in its operations. The office shall provide the following information regarding permits to citizens and businesses:

(a) An agency's average turnaround time from the date of application to date of decision for the required permit, licenses, or other necessary regulatory decisions, or the most relevant information the agency can provide, for projects of a comparable size and complexity;

(b) The information required for an agency to make a decision on a permit or regulatory requirement, including the agency's best estimate of the number of times projects of a similar size and complexity have been asked to clarify, improve, or provide supplemental information before a decision, and the expected agency response time, recognizing that changes in the project or other circumstances may change the information required; and

(c) An estimate of the maximum amount of costs in fees to be paid to state agencies, the type of any studies an agency expects to need, and the timing of any expected public processes for the project.

(2) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020. [2009 c 97 § 2; 2007 c 94 § 3; 2002 c 153 § 3.]

43.42.030 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Director" means the director of the office of regulatory assistance.

(2) "Fully coordinated permit process" means a comprehensive coordinated permitting assistance approach supported by a written agreement between the project proponent,

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the office of regulatory assistance, and the agencies participating in the fully coordinated permit process.

(3) "General coordination services" means services that bring interested parties together to explore opportunities for cooperation and to resolve conflicts. General coordination services may be provided as a stand-alone event or as an element of broader project assistance, nonproject-related inter-agency coordination, or policy and planning teamwork.

(4) "Office" means the office of regulatory assistance established in RCW 43.42.010.

(5) "Permit" means any permit, license, certificate, use authorization, or other form of governmental review or approval required in order to construct, expand, or operate a project in the state of Washington.

(6) "Permit agency" means any state, local, or federal agency authorized by law to issue permits.

(7) "Project" means any activity, the conduct of which requires a permit or permits from one or more permit agencies.

(8) "Project proponent" means a citizen, business, or any entity applying for or seeking a permit or permits in the state of Washington.

(9) "Project scoping" means the identification of relevant issues and information needs of a project proponent and the permitting agencies, and reaching a common understanding regarding the process, timing, and sequencing for obtaining applicable permits. [2009 c 97 § 3; 2007 c 94 § 4; 2003 c 71 § 3; 2002 c 153 § 4.]

43.42.040 Maintaining and furnishing information—Contact point—Service center—Website. (1) The office shall assist citizens, businesses, and project proponents by maintaining and furnishing information, including, but not limited to:

(a) To the extent possible, compiling and periodically updating one or more handbooks containing lists and explanations of permit laws, including all relevant local, state, federal, and tribal laws. In providing this information, the office shall seek the cooperation of relevant local, state, and federal agencies and tribal governments;

(b) Establishing and providing notice of a point of contact for obtaining information;

(c) Working closely and cooperatively with business license centers to provide efficient and nonduplicative service; and

(d) Developing a service center and a website.

(2) The office shall coordinate among state agencies to develop an office website that is linked through the office of the governor's website and that contains information regarding permitting and regulatory requirements for businesses and citizens in Washington state. At a minimum, the website shall provide information or links to information on:

(a) Federal, state, and local rule-making processes and permitting and regulatory requirements applicable to Washington businesses and citizens;

(b) Federal, state, and local licenses, permits, and approvals necessary to start and operate a business or develop real property in Washington;

(c) State and local building codes;

(d) Federal, state, and local economic development programs that may be available to businesses in Washington; and

(e) State and local agencies regulating or providing assistance to citizens and businesses operating a business or developing real property in Washington.

(3) This section does not create an independent cause of action, affect any existing cause of action, or create any new cause of action regarding the application of regulatory or permit requirements. [2007 c 94 § 5; 2003 c 71 § 4; 2002 c 153 § 5.]

43.42.050 Project scoping—Factors. (1) Upon request of a project proponent, the office must determine the level of project scoping needed by the project proponent, taking into consideration the complexity of the project and the experience of those expected to be involved in the project application and review process. The director may require the attendance at a scoping meeting of any state or local agency.

(2) Project scoping must consider the complexity, size, and needs for assistance of the project and must address as appropriate:

- (a) The permits that are required for the project;
- (b) The permit application forms and other application requirements of the participating permit agencies;
- (c) The specific information needs and issues of concern of each participant and their significance;
- (d) Any statutory or regulatory conflicts that might arise from the differing authorities and roles of the permit agencies;
- (e) Any natural resources, including federal or state listed species, that might be adversely affected by the project and might cause an alteration of the project or require mitigation; and

(f) The anticipated time required for permit decisions by each participating permit agency, including the estimated time required to determine if the permit application is complete, to conduct environmental review, and to review and process the application. In determining the estimated time required, full consideration must be given to achieving the greatest possible efficiencies through any concurrent studies and any consolidated applications, hearings, and comment periods.

(3) The outcome of the project scoping must be documented in writing, furnished to the project proponent, and be made available to the public.

(4) The project scoping must be completed prior to the passage of sixty days of the project proponent's request for a project scoping unless the director finds that better results can be obtained by delaying the project scoping meeting or meetings to ensure full participation.

(5) Upon completion of the project scoping, the participating permit agencies must proceed under their respective authorities. The agencies may remain in communication with the office as needed.

(6) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020. [2012 c 196 § 2; 2009 c 97 § 5; 2007 c 94 § 6; 2003 c 54 § 4; 2002 c 153 § 6.]

43.42.060 Fully coordinated permit process—Requirements—Procedure. (1) A project proponent may submit a written request to the director of the office for participation in a fully coordinated permit process. Designation as a fully coordinated project requires that:

(a) The project proponent enters into a cost-reimbursement agreement pursuant to RCW 43.42.070;

(b) The project has a designation under chapter 43.157 RCW; or

(c) The director determine that (i)(A) the project raises complex coordination, permit processing, or substantive permit review issues; or (B) if completed, the project would provide substantial benefits to the state; and (ii) the office, as well as the participating permit review agencies, have sufficient capacity within existing resources to undertake the full coordination process without reimbursement and without seriously affecting other services.

(2) A project proponent who requests designation as a fully coordinated permit process project must provide the office with a full description of the project. The office may request any information from the project proponent that is necessary to make the designation under this section, and may convene a scoping meeting or a work plan meeting of the likely participating permit agencies.

(3) When a project is designated for the fully coordinated permit process, the office must serve as the main point of contact for the project proponent and participating agencies with regard to the permit process for the project as a whole. Each participating agency must designate a single point of contact for coordinating with the office. The office must keep an up-to-date project management log and schedule illustrating required procedural steps in the permitting process, and highlighting substantive issues as appropriate that must be resolved in order for the project to move forward. In carrying out these responsibilities, the office must:

(a) Ensure that the project proponent has been informed of all the information needed to apply for the permits that are included in the coordinated permit process;

(b) Coordinate the timing of review for those permits by the respective participating permit agencies;

(c) Facilitate communication between project proponents, consultants, and agency staff to promote timely permit decisions;

(d) Assist in resolving any conflict or inconsistency among the permit requirements and conditions that are expected to be imposed by the participating permit agencies; and

(e) Make contact, at least once, with any local, tribal, or federal jurisdiction that is responsible for issuing a permit for the project and invite them to participate in the coordinated permit process or to receive periodic updates in the project.

(4) Within thirty days, or longer with agreement of the project proponent, of the date that the office designates a project for the fully coordinated permit process, it shall convene a work plan meeting with the project proponent and the participating permit agencies to develop a coordinated permit processing schedule. The meeting agenda may include any of the following:

(a) Review of the permits that are required for the project;

(b) A review of the permit application forms and other application requirements of the agencies that are participating in the coordinated permit process;

(c) An estimation of the timelines that will be used by each participating permit agency to make permit decisions, including the estimated time periods required to determine if the permit applications are complete and to review or respond to each application or submittal of new information.

(i) The estimation must also include the estimated number of revision cycles for the project, or the typical number of revision cycles for projects of similar size and complexity.

(ii) In the development of this timeline, full attention must be given to achieving the maximum efficiencies possible through concurrent studies and consolidated applications, hearings, and comment periods.

(iii) Estimated action or response times for activities of the office that are required before or trigger further action by a participant must also be included;

(d) Available information regarding the timing of any public hearings that are required to issue permits for the project and a determination of the feasibility of coordinating or consolidating any of those required public hearings; and

(e) A discussion of fee arrangements for the coordinated permit process, including an estimate of the costs allowed by statute, any reimbursable agency costs, and billing schedules, if applicable.

(5) Each agency must send at least one representative qualified to discuss the applicability and timelines associated with all permits administered by that agency or jurisdiction. At the request of the project proponent, the office must notify any relevant local or federal agency or federally recognized Indian tribe of the date of the meeting and invite that agency's participation in the process.

(6) Any accelerated time period for the consideration of a permit application must be consistent with any statute, rule, or regulation, or adopted state policy, standard, or guideline that requires the participation of other agencies, federally recognized Indian tribes, or interested persons in the application process.

(7) If a permit agency or the project proponent foresees, at any time, that it will be unable to meet the estimated timelines or other obligations under the agreement, it must notify the office of the reasons for the problem and offer potential solutions or an amended timeline for resolving the problem. The office must notify the participating permit agencies and the project proponent and, upon agreement of all parties, adjust the schedule, or, if necessary, schedule another work plan meeting.

(8) The project proponent may withdraw from the coordinated permit process by submitting to the office a written request that the process be terminated. Upon receipt of the request, the office must notify each participating permit agency that a coordinated permit process is no longer applicable to the project. [2012 c 196 § 3. Prior: 2009 c 421 § 8; 2009 c 97 § 6; 2007 c 94 § 7; 2003 c 54 § 5; 2002 c 153 § 7.]

Additional notes found at www.leg.wa.gov

43.42.070 Cost-reimbursement agreements. (1) The office may enter into cost-reimbursement agreements with a project proponent to recover from the project proponent the reasonable costs incurred by the office in carrying out the

provisions of this chapter. The agreement must include provisions for covering the costs incurred by the permit agencies that are participating in the cost-reimbursement project and carrying out permit processing or project review tasks referenced in the cost-reimbursement agreement.

(2) The office must maintain policies or guidelines for coordinating cost-reimbursement agreements with participating agencies, project proponents, and independent consultants. Policies or guidelines must ensure that, in developing cost-reimbursement agreements, conflicts of interest are eliminated. The policies must also support effective use of cost-reimbursement resources to address staffing and capacity limitations as may be relevant within the office or participating permit agencies.

(3) For fully coordinated permit processes and priority economic recovery projects selected pursuant to this section, the office must coordinate the negotiation of all cost-reimbursement agreements executed under RCW 43.21A.690, 43.30.490, 43.70.630, 43.300.080, and 70A.15.1570. The office, project proponent, and participating permit agencies must be signatories to the cost-reimbursement agreement or agreements. Each participating permit agency must manage performance of its portion of the cost-reimbursement agreement. Independent consultants hired under a cost-reimbursement agreement must report directly to the hiring office or participating permit agency. Any cost-reimbursement agreement must require that final decisions are made by the participating permit agency and not by a hired independent consultant.

(4) For any project using cost reimbursement, the cost-reimbursement agreement must require the office and participating permit agencies to develop and periodically update a project work plan, which the office must provide on the internet and share with each party to the agreement.

(5)(a) The cost-reimbursement agreement must identify the proposed project, the desired outcomes, and the maximum costs for work to be conducted under the agreement. The desired outcomes must refer to the decision-making process and may not prejudice or predetermine whether decisions will be to approve or deny any required permit or other application. Each participating permit agency must agree to give priority to the cost-reimbursement project but may in no way reduce or eliminate regulatory requirements as part of the priority review.

(b) Reasonable costs are determined based on time and materials estimates with a provision for contingencies, or set as a flat fee tied to a reasonable estimate of staff hours required.

(c) The cost-reimbursement agreement may include deliverables and schedules for invoicing and reimbursement. The office may require advance payment of some or all of the agreed reimbursement, to be held in reserve and distributed to participating permit agencies and the office upon approval of invoices by the project proponent. The project proponent has thirty days to request additional information or challenge an invoice. If an invoice is challenged, the office must respond and attempt to resolve the challenge within thirty days. If the office is unable to resolve the challenge within thirty days, the challenge must be submitted to the office of financial management. A decision on such a challenge must be made by the office of financial management and approved by the

director of the office of financial management and is binding on the parties.

(d) Upon request, the office must verify whether participating permit agencies have met the obligations contained in the project work plan and cost-reimbursement agreement.

(6) If a party to the cost-reimbursement agreement foresees, at any time, that it will be unable to meet its obligations under the agreement, it must notify the office and state the reasons, along with proposals for resolving the problems. The office must notify the other parties to the cost-reimbursement agreement and seek to resolve the problems by adjusting invoices, deliverables, or the project work plan, or through some other accommodation. [2021 c 65 § 43; 2012 c 196 § 4; 2010 c 162 § 4; 2009 c 97 § 7; 2007 c 94 § 8; 2003 c 70 § 7; 2002 c 153 § 8.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Additional notes found at www.leg.wa.gov

43.42.080 Participating permit agencies—Timelines.

With the agreement of all participating permitting agencies and the permit applicant or project proponent, state permitting agencies may establish timelines to make permit decisions, including the time periods required to determine that the permit applications are complete, to review the applications, and to process the permits. Established timelines shall not be shorter than those otherwise required for each permit under other applicable provisions of law, but may extend and coordinate such timelines. The goal of the established timelines is to achieve the maximum efficiencies possible through concurrent studies and consolidation of applications, permit review, hearings, and comment periods. A timeline established under this subsection with the agreement of each permitting agency shall commit each permitting agency to act within the established timeline. [2007 c 94 § 9; 2004 c 32 § 1.]

43.42.090 Multiagency permitting teams—Findings—Intent—Purpose. (1) The legislature finds that the state of Washington has implemented a number of successful measures to streamline, coordinate, and consolidate the multiparty, multijurisdictional permitting and regulatory decision-making process. The office of regulatory assistance was developed and implemented at a time when the state faced a crisis in its economic competitiveness. The multiagency permitting team for transportation was developed and implemented at a time when the state's transportation system faced a crisis in public confidence concerning transportation project delivery. The legislature further finds that the state of Washington is now facing an economic and financial crisis that requires immediate action to spur economic development and the creation of jobs without sacrificing the quality of the state's environment.

(2) The legislature intends to:

(a) Draw from and extend the benefits of proven permit streamlining solutions to future project proponents and aid the state's recovery by authorizing optional multiagency permitting teams modeled after the multiagency permitting team developed and implemented for state transportation projects. It is the purpose of chapter 162, Laws of 2010 to provide willing permit applicants and project proponents with permit

coordination and integrated regulatory decision-making services on a cost-reimbursed basis; and

(b) Phase-in a revenue-neutral permit streamlining approach to expedite permit and regulatory decision making while ensuring a high level of environmental protection. [2010 c 162 § 2.]

Additional notes found at www.leg.wa.gov

43.42.092 Multiagency permitting teams. (1)(a) The office of regulatory assistance is authorized to develop and advertise the availability of optional multiagency permitting teams to provide coordinated permitting and integrated regulatory decision making starting in the Puget Sound basin.

(b) New expenses associated with operating the optional multiagency permitting teams must be recovered by the office of regulatory assistance using existing state cost-reimbursement and interagency cost-sharing authorities as applicable. The cost-reimbursement process is subject to the requirements and limitations set forth in RCW 43.42.070. Initial administrative costs and other costs that may not be recoverable through cost-reimbursement or cost-sharing mechanisms may be covered by funds from the multiagency permitting team account created in RCW 43.42.095.

(c) The director of the office of regulatory assistance must solicit donations and such other funds as the director deems appropriate from public and private sources for the purposes of covering the initial administrative costs and other costs associated with operation of optional multiagency permitting teams which are not recoverable through cost-reimbursement or cost-sharing mechanisms. All such solicited funds must be placed in the multiagency permitting team account created in RCW 43.42.095.

(2) Optional multiagency permitting teams must be:

(a) Mobile, capable of traveling or working together as teams, initially throughout the Puget Sound basin;

(b) Located initially in central Puget Sound;

(c) Staffed by appropriate senior-level permitting and regulatory decision-making personnel representing the Washington state departments of ecology, fish and wildlife, and natural resources and having expertise in regulatory issues relating to the project; and

(d) Managed by the office of regulatory assistance through a team leader responsible for:

(i) Managing or monitoring team activities to ensure the cost-reimbursement schedule and agreement is followed;

(ii) Developing and maintaining partnerships and working relationships with local, state, tribal, and federal organizations not core to the optional multiagency permitting teams that can be called upon to join the team on a project-by-project basis;

(iii) Developing, defining, and providing a set of coordinated permitting and integrated decision-making services consistent with those set forth in subsection (3) of this section;

(iv) Developing and executing funding agreements with applicants, project proponents, regulatory agencies, and others as necessary to ensure the financial viability of the optional multiagency permitting teams;

(v) Measuring and regularly reporting on team performance, results and outcomes achieved, including improved: Permitting predictability, interagency early project coordina-

tion, interagency accessibility, interagency relationships, project delivery, and environmental results, including the avoidance or prevention of environmental harm and the effectiveness of mitigation;

(vi) Conducting outreach, marketing, and advertising of team services and team availability, focusing initially on projects such as large-scale public, private, and port development projects with complex aquatics, wetland, or other environmental impacts; environmental cleanup, restoration, and enhancement projects; aquaculture projects; and energy, power generation, and utility projects;

(vii) Implementing issue and dispute resolution protocols;

(viii) Incorporating and using virtual tools for online collaboration to support permitting and regulatory coordination and expedited decision making; and

(ix) Extending and subsequently implementing the optional multiagency permitting team approach to other significant geographic regions of the state.

(3) The optional multiagency permitting teams must at a minimum work with the office of regulatory assistance to provide the following core services:

(a) Project scoping, as set forth in RCW 43.42.050 (1) through (4), to help applicants identify applicable permits and regulatory approvals;

(b) A preapplication coordination service, which may be combined with project scoping, to help applicants understand applicable requirements and plan out with the assistance of the regulatory agencies an optimally sequenced permitting and regulatory decision-making strategy and approach for the overall project;

(c) Fully coordinated project review as set forth in RCW 43.42.060 to set schedules and agreed-upon time frames for the applicant and regulatory decision makers consistent with statutory requirements and with regard to available agency resources and to track, monitor, and report progress made in meeting those schedules and time frames;

(d) Mitigation coordination to help applicants and regulatory agencies collaborate on and implement mitigation obligations within a watershed context so superior environmental results can be achieved when impacts cannot be avoided or further minimized.

(4) Local and federal permitting and regulatory personnel should be incorporated into the optional multiagency permitting teams whenever possible and at least on a project-by-project basis. Moneys recouped through state cost-reimbursement and interagency cost-sharing authorities, or as otherwise solicited for deposit into the multiagency permitting team account created in RCW 43.42.095, may also be used to cover local and federal participation.

(5) The optional multiagency permitting teams will provide services for complex projects requiring multiple permits and regulatory approvals and having multiple points of regulatory jurisdiction. The optional multiagency permitting teams are not intended to support state transportation projects capable of being serviced by multiagency permitting teams specifically established for state transportation projects. Use of the optional multiagency permitting teams for a fully coordinated permit process must be allowed unless the office of regulatory assistance notifies a project proponent in writing

of other means of effective and efficient project review that are available and are recommended. [2010 c 162 § 3.]

Additional notes found at www.leg.wa.gov

43.42.095 Multiagency permitting team account. The multiagency permitting team account is created in the custody of the state treasurer. All receipts from cost-reimbursement agreements authorized in RCW 43.42.070 and solicitations authorized in RCW 43.42.092 must be deposited into the account. Expenditures from the account may be used only for covering staffing, consultant, technology, and other administrative costs of multiagency permitting teams and other costs associated with multiagency project review and management that may arise. Only the director of the office of regulatory assistance or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2012 c 196 § 5; 2010 c 162 § 5.]

Additional notes found at www.leg.wa.gov

43.42.100 Streamlined process certification. Within available funds, the office of regulatory assistance may certify permit processes at the local level as streamlined processes. In developing the certification program, the director must work with local jurisdictions to establish the criteria and the process for certification. Jurisdictions with permit processes certified as streamlined may receive priority in receipt of state funds for infrastructure projects. [2012 c 196 § 8.]

43.42.900 Jurisdiction of energy facility site evaluation council not affected. Nothing in this chapter affects the jurisdiction of the energy facility site evaluation council under chapter 80.50 RCW. [2002 c 153 § 11.]

43.42.901 Authority of permit agencies not affected. (1) Nothing in this chapter shall be construed to abrogate or diminish the functions, powers, or duties granted to any permit agency by law.

(2) Nothing in this chapter grants the office authority to decide if a permit shall be issued. The authority for determining if a permit shall be issued shall remain with the permit agency. [2002 c 153 § 12.]

43.42.902 Authority of participating permit agency retained. This chapter shall not be construed to limit or abridge the powers and duties granted to a participating permit agency under the law that authorizes or requires the agency to issue a permit for a project. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component permit that is within its scope of its responsibility including, but not limited to, the determination of permit application completeness, permit approval or approval with conditions, or permit denial. The office may not substitute its judgment for that of a participating permit agency on any such nonprocedural matters. [2009 c 97 § 13.]

Chapter 43.42A RCW
STATE AGENCY BUSINESS PERMIT
MANAGEMENT SYSTEMS

Sections

- 43.42A.005 Intent—Finding.
 43.42A.010 Definitions.
 43.42A.020 Inventory of business permits—Information to be tracked and recorded—Performance data—Reports.
 43.42A.030 Information available to permit applicants—Links from agencies' websites to office of regulatory assistance's website—Central repository of information—Searchability of information on central repository.
 43.42A.040 Comprehensive progress report—Identification of permits with processing and decision times that are most improved and those most in need of improvement.

43.42A.005 Intent—Finding. On December 30, 2013, the Washington state auditor's office issued a performance audit report, finding that state agencies could shorten the time it takes to submit, review, and make decisions on business permit applications through simple improvements. In response to the performance audit findings, the legislature intends to improve the predictability and efficiency of permit decisions by making information about permitting assistance and timelines more readily available to the public. The legislature finds that providing citizens and businesses with better information about permit decisions will assist their planning and decision making, promoting economic development. Making permit performance data readily accessible to citizens helps them hold government accountable to a high level of customer service and timeliness. Finally, requiring agencies to track the time it takes to issue permits equips agency leaders with key information that can assist them in improving overall project schedules, better allocating resources, and identifying additional opportunities to better serve the public. [2014 c 68 § 1.]

43.42A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means the following executive branch agencies and offices of statewide elected officials:

- (a) Department of agriculture;
- (b) Department of archaeology and historic preservation;
- (c) Department of ecology;
- (d) Department of fish and wildlife;
- (e) Gambling commission;
- (f) Department of health;
- (g) Department of labor and industries;
- (h) Department of licensing;
- (i) *Liquor control board;
- (j) Department of natural resources;
- (k) Parks and recreation commission;
- (l) Department of revenue;
- (m) Department of transportation; and
- (n) Utilities and transportation commission.

(2) "Office" means the office of regulatory assistance. [2014 c 68 § 2.]

*Reviser's note: The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

43.42A.020 Inventory of business permits—Information to be tracked and recorded—Performance data—

Reports. (1) By June 30, 2014, each agency shall prepare and submit to the office an inventory of all the business permits indicated in the December 30, 2013, performance audit report by the state auditor.

(2)(a) Each agency shall track and record the time it takes to make permitting decisions.

(b) Agencies are encouraged to track all relevant information that can assist Washington businesses in determining how long a permit process will take so that the businesses may successfully plan their activities and make sound investment choices, reduce permitting costs to the taxpayers in the form of unnecessary or duplicate staff work, and avoid permitting decision delays that can result in higher costs and lost revenue.

(c) At a minimum, each agency shall track and record the following information for each permit application it receives or decision it issues:

(i) The application completion time, which is the time elapsed from the initial submission of an application by an entity seeking a permit to the time at which the agency has determined that the application is complete; and

(ii) The permit decision time, which is the time elapsed from receipt of a complete application to the agency's issuance of a decision approving or denying the permit.

(3) Each agency shall calculate, for each permit it has identified in its inventory, the following performance data:

(a) The average application completion and permit decision times for each permit, as measured by the times tracked for ninety percent of applications or permit decisions, excluding the five percent that took the shortest and the five percent that took the longest;

(b) The maximum application completion time, excluding applications that were withdrawn or never completed; and

(c) The maximum permit decision time.

(4) Each agency shall report to the office, as provided in this subsection (4).

(a) By March 1, 2016, each agency shall report the times calculated under subsection (3) of this section for the period from January 1, 2015, to January 1, 2016.

(b) By March 1, 2018, and March 1, 2020, each agency shall report based on the times tracked and calculated since the previous reporting period.

(c) In each of the reports required under this section, each agency shall submit an updated inventory of permits. Each agency shall identify any permits listed in its inventory for which the agency has not yet posted permit processing times and other information as required under RCW 43.42A.030 and an estimated date for such posting prior to June 30, 2015.

(5) The office shall make available to the legislature, upon request, the individual agency reports submitted under subsection (4) of this section. [2014 c 68 § 3.]

43.42A.030 Information available to permit applicants—Links from agencies' websites to office of regulatory assistance's website—Central repository of information—Searchability of information on central repository.

(1) To provide meaningful customer service that informs project planning and decision making by the citizens and businesses served, each agency must make available to per-

mit applicants the following information through a link from the agency's website to the office's website, as provided in subsection (4) of this section:

(a) A list of the types of permit assistance available and how such assistance may be accessed;

(b) An estimate of the time required by the agency to process a permit application and issue a decision;

(c) Other tools to help applicants successfully complete a thorough application, such as:

(i) Examples of model completed applications;

(ii) Examples of approved applications, appropriately redacted to remove sensitive information; and

(iii) Checklists for ensuring a complete application.

(2) Each agency shall update at reasonable intervals the information it posts pursuant to this section.

(3)(a) Agencies must post the information required under subsection (1) of this section for all permits as soon as practicable, and no later than the deadlines established in this section.

(b) The agency shall post the permit inventory for that agency and the information required under subsection (1)(a) and (c) of this section no later than June 30, 2014.

(c) The agency shall post the estimates of application completion and permit decision times required under subsection (1)(b) of this section based on actual data for calendar year 2015 by March 1, 2016, and update this information for the previous calendar year, by March 1st of each year thereafter.

(d) Agencies must consider the customer experience in ensuring all permit assistance information is simple to use, easy to access, and designed in a customer-friendly manner.

(4) To ensure agencies can post the required information online with minimal expenditure of agency resources, the office of the chief information officer shall, in consultation with the office of regulatory assistance, establish a central repository of this information, hosted on the office of regulatory assistance's website. Each agency shall include at least one link to the central repository from the agency's website. Agencies shall place the link or links in such locations as the agency deems will be most customer-friendly and maximize accessibility of the information to users of the website.

(5) The office shall ensure the searchability of the information posted on the central repository, applying industry best practices such as search engine optimization, to ensure that the permit performance and assistance information is readily findable and accessible by members of the public. [2014 c 68 § 4.]

43.42A.040 Comprehensive progress report—Identification of permits with processing and decision times that are most improved and those most in need of improvement. (1) By September 30th of 2016 and each even-numbered year thereafter up to and including 2020, the office shall publish a comprehensive progress report to the economic development committees of the house of representatives and the senate and to the governor on the performance of agencies in tracking permit timelines and other efforts to improve clarity and predictability of regulatory permitting. The report must include at a minimum for each agency a summary of the data reported by the agency to the office under RCW 43.42A.020(4).

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(2) The office shall post the comprehensive progress report on its website. The report must be easily accessible and designed in a customer-friendly format.

(3) Beginning with the 2016 report, the office must identify permits with processing and decision times that are most improved and processing and decision times that are most in need of improvement, as indicated by the performance data collected under RCW 43.42A.020. Each agency may include a statement describing any process improvements the agency has identified for implementation in order to improve processing and decision times. [2014 c 68 § 5.]

Chapter 43.43 RCW

WASHINGTON STATE PATROL

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STATE FIRE SERVICE MOBILIZATION

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Transportation of hazardous materials, chief's powers and duties relating to: RCW 46.48.170, 46.48.175.

43.43.005 Comprehensive outreach and marketing strategic plan. To ensure that it is adequately and thoroughly reaching potential recruits, the Washington state patrol must develop a comprehensive outreach and marketing strategic plan that expands on the success of current strategies and looks for ways to tap into groups or individuals that do not currently show an interest in the state patrol or law enforcement as a career. The plan must include, but is not limited to, expanding marketing and outreach efforts online and through other media outlets and expanding recruitment relationships in respective communities. The plan must also include polling applicants about their application. Results from the polling must be tracked to determine the success of each outreach method. [2016 c 28 § 7.]

Intent—2016 c 28: See note following RCW 43.43.380.

43.43.010 Patrol created. There shall be a department of state government known as the "Washington state patrol." The chief thereof shall be known as the chief of the Washington state patrol, and members thereof shall be known as Washington state patrol officers. [1965 c 8 § 43.43.010. Prior: 1933 c 25 § 1; RRS § 6362-59.]

43.43.012 Chief for a day program. (1) To promote positive relationships between law enforcement and the citizens of the state of Washington, the Washington state patrol may participate in the chief for a day program. The chief of the Washington state patrol may designate staff who may participate in organizing the event. The Washington state patrol may accept grants of funds and gifts to be utilized in furtherance of this purpose, and may use their public facilities for such purpose. At all times, the participation of the Washington state patrol must comply with chapter 42.52 RCW.

(2) For the purposes of this section, "chief for a day program" means a program in which the Washington state patrol partners with other local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, chief for a day, may occur on the grounds and in the facilities of the Washington state patrol. The program may

include any appropriate honoring of the child as a chief, such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts. The gifts may include, but are not limited to, games, puzzles, and art supplies. [2010 c 10 § 2.]

Finding—2010 c 10: "The legislature finds that the Washington state patrol's participation in charitable work, such as the chief for a day program that provides special attention to chronically ill children through recognition by various law enforcement agencies within the state, advances the overall purposes of the department by promoting positive relationships between law enforcement and the citizens of the state of Washington." [2010 c 10 § 1.]

43.43.013 Donations, gifts, conveyances, devises, and grants. The Washington state patrol may accept any and all donations, bequests, gifts, conveyances, devices [devises], and grants conditional or otherwise; or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, institution, person, firm, or corporation, public and private, to be held, used, or applied for the purpose of fulfilling its mission. [2009 c 108 § 1.]

43.43.015 Affirmative action. For the purposes of this chapter, "affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system. [1985 c 365 § 4; (2019 c 160 § 4, Referendum Measure No. 88 failed to become law).]

43.43.020 Appointment of personnel. The governor, with the advice and consent of the senate, shall appoint the chief of the Washington state patrol, determine his compensation, and may remove him at will.

The chief shall appoint a sufficient number of competent persons to act as Washington state patrol officers, may remove them for cause, as provided in this chapter, and shall make promotional appointments, determine their compensation, and define their rank and duties, as hereinafter provided. Before a person may be appointed to act as a Washington state patrol officer, the person shall meet the minimum standards for employment with the Washington state patrol, including successful completion of a psychological examination and polygraph examination or similar assessment procedure administered by the chief or his or her designee in accordance with the requirements of RCW 43.101.095(2).

The chief may appoint employees of the Washington state patrol to serve as special deputies, with such restricted police authority as the chief shall designate as being necessary and consistent with their assignment to duty. Such appointment and conferral of authority shall not qualify said employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

The chief may personally appoint, with the consent of the state treasurer, employees of the office of the state treasurer who are qualified under the standards of the criminal justice training commission, or who have comparable training and experience, to serve as special deputies. The law enforcement powers of any special deputies appointed in the office of the state treasurer shall be designated by the chief and shall be restricted to those powers necessary to provide

for statewide security of the holdings or property of or under the custody of the office of the state treasurer. These appointments may be revoked by the chief at any time and shall be revoked upon the written request of the state treasurer or by operation of law upon termination of the special deputy's employment with the office of the state treasurer or thirty days after the chief who made the appointment leaves office. The chief shall be civilly immune for the acts of such special deputies. Such appointment and conferral of authority shall not qualify such employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol. [2005 c 434 § 4; 1983 c 144 § 1; 1981 c 338 § 4; 1973 1st ex.s. c 80 § 1; 1965 c 8 § 43.43.020. Prior: 1949 c 192 § 1; 1933 c 25 § 3; Rem. Supp. 1949 § 6362-61.]

Civil service exemptions: RCW 41.06.070.

43.43.030 Powers and duties—Peace officers. The chief and other officers of the Washington state patrol shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally, and such other powers and duties as are prescribed by law. [1965 c 8 § 43.43.030. Prior: 1933 c 25 § 2; RRS § 6362-60.]

General authority law enforcement agency: RCW 10.93.020.

43.43.035 Governor, lieutenant governor, and governor-elect—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide security and protection for the governor, the governor's family, and the lieutenant governor to the extent and in the manner the governor and the chief of the Washington state patrol deem adequate and appropriate.

In the same manner the chief of the Washington state patrol is directed to provide security and protection for the governor-elect from the time of the November election. [1991 c 63 § 1; 1965 ex.s. c 96 § 1.]

43.43.037 Legislature—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide such security and protection for both houses of the legislative building while in session as in the opinion of the speaker of the house and the president of the senate may be necessary therefor upon the advice of the respective sergeant-at-arms of each legislative body. [1965 ex.s. c 96 § 2.]

43.43.040 Disability of patrol officers. (1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That:

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received

through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than forty consecutive work hours. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in willfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his or her retirement allowance to an amount which when added to the compensation earned by him or her in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he or she was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his or her disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2)(a) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty.

(b) In addition to the compensation provided in (a) of this subsection, the compensation of an officer who is totally disabled during line duty shall include reimbursement for any payments of premiums made after June 10, 2010, for employer-provided medical insurance. An officer is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred sixty dollars a month in 2006 adjusted annually as determined by the department of retirement systems based on federal social security disability standards. An officer in receipt

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of reimbursement for any payments of premium rates for employer-provided medical insurance under this subsection is required to file with the chief any financial records that are necessary to determine continued eligibility for such reimbursement. The failure of any officer to file the required financial records is cause for cancellation of the reimbursement. The legislature reserves the right to amend or repeal the benefits provided in this subsection (2)(b) in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time. [2010 c 259 § 3; 2009 c 549 § 5122; 1998 c 194 § 1; 1987 c 185 § 17; 1981 c 165 § 1; 1973 2nd ex.s. c 20 § 1; 1965 c 8 § 43.43.040. Prior: 1947 c 174 § 1; 1943 c 215 § 1; RRS § 6362-65.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Additional notes found at www.leg.wa.gov

43.43.050 Tenure of patrol officers. Washington state patrol officers shall be entitled to retain their ranks and positions until death or resignation, or until suspended, demoted, or discharged in the manner hereinafter provided. [1965 c 8 § 43.43.050. Prior: 1943 c 205 § 1; Rem. Supp. 1943 § 6362-66.]

43.43.060 Suspension or demotion of probationary officers. The chief of the Washington state patrol may suspend or demote any officer with probationary status, without preferring charges against the officer, and without a hearing. [1984 c 141 § 1; 1965 c 8 § 43.43.060. Prior: 1943 c 205 § 2; Rem. Supp. 1943 § 6362-67.]

43.43.070 Discharge of probationary officers—Discharge, demotion, or suspension of nonprobationary officers—Complaint—Hearing. Discharge of any officer with probationary status and discharge, demotion, or suspension of any officer with nonprobationary status shall be only for cause, which shall be clearly stated in a written complaint, sworn to by the person preferring the charges, and served upon the officer complained of.

Upon being so served, any such officer shall be entitled to a public hearing before a trial board consisting of two Washington state patrol officers of the rank of captain, and one officer of equal rank with the officer complained of, who shall be selected by the chief of the Washington state patrol by lot from the roster of the patrol. In the case of complaint by an officer, such officer shall not be a member of the trial board. [1984 c 141 § 2; 1965 c 8 § 43.43.070. Prior: 1943 c 205 § 3; Rem. Supp. 1943 § 6362-68.]

43.43.080 Criminal complaint—Authority to suspend officer—Hearing. When the complaint served upon an officer is of a criminal nature calling for the discharge of the officer, the chief of the patrol may immediately suspend the officer without pay pending a trial board hearing. The board shall be convened no later than forty-five days from the date of suspension. However, this does not preclude the granting of a mutually agreed upon extension; in such cases the officer shall remain on suspension without pay.

An officer complained of may waive a hearing and accept the proposed discipline by written notice to the chief

of the patrol. [1989 c 28 § 1; 1965 c 8 § 43.43.080. Prior: 1943 c 205 § 4; Rem. Supp. 1943 § 6362-69.]

43.43.090 Procedure at hearing. At the hearing, an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, and shall make all necessary rulings in the course of the hearing, but shall not be entitled to vote.

The complainant and the officer complained of may submit evidence, and be represented by counsel, and a full and complete record of the proceedings, and all testimony, shall be taken down by a stenographer.

After hearing, the findings of the trial board shall be submitted to the chief. Such findings shall be final if the charges are not sustained. In the event the charges are sustained the chief may determine the proper disciplinary action and declare it by written order served upon the officer complained of. [1989 c 28 § 2; 1984 c 141 § 3; 1965 c 8 § 43.43.090. Prior: 1943 c 205 § 5; Rem. Supp. 1943 § 6362-70.]

43.43.100 Review of order. Any officer subjected to disciplinary action may, within ten days after the service of the order upon the officer, apply to the superior court of Thurston county for a writ of review to have the reasonableness and lawfulness of the order inquired into and determined.

The superior court shall review the determination of the chief of the Washington state patrol in a summary manner, based upon the record of the hearing before the trial board, and shall render its decision within ninety days, either affirming or reversing the order of the chief, or remanding the matter to the chief for further action. A transcript of the trial board hearing shall be provided to the court by the state patrol after being paid for by the officer subjected to disciplinary action. However, if the officer prevails before the court, the state patrol shall reimburse the officer for the cost of the transcript. [1984 c 141 § 4; 1965 c 8 § 43.43.100. Prior: 1943 c 205 § 6; Rem. Supp. 1943 § 6362-71.]

43.43.110 Reinstatement on acquittal. If as a result of any trial board hearing, or review proceeding, an officer complained of is found not guilty of the charges against him or her, he or she shall be immediately reinstated to his or her former position, and be reimbursed for any loss of salary suffered by reason of the previous disciplinary action. [2009 c 549 § 5123; 1965 c 8 § 43.43.110. Prior: 1943 c 205 § 7; Rem. Supp. 1943 § 6362-72.]

43.43.111 Patrol officer vehicle accidents. To ensure transparency, integrity, and credibility during Washington state patrol vehicle accident investigations, the agency will continue to review and reform the agency policies and procedures regarding Washington state patrol officers that are involved in vehicle accidents. The agency shall develop agency policies and include as part of the terms of their collective bargaining agreements a progressive corrective process addressing Washington state patrol officer vehicle accidents that may include retraining in vehicle handling, wage or benefit reductions, and termination of employment. The agency shall develop a process for tracking accidents and an accident review process. Annually, a collision data report must be produced designating each accident during the year

as minor or severe and any resulting disciplinary actions and be available for review by the legislature. The agency shall implement communication procedures for the victims involved in the accidents from the time the accident occurs until the investigative process has been concluded. The policies must also provide for outside supervision of accident investigations by a qualified independent agency under certain circumstances.

Before the legislative committee assembly in September 2005, the Washington state patrol shall have an outside entity that has a reputation for and has proven experience in law enforcement management and reviewing law enforcement and criminal justice policies and procedures review the agency's proposed law enforcement vehicle accident policies and procedures where a law enforcement officer is involved. The agency will present the proposed policies and procedures to the legislature and finalize the policies and procedures based on input from the legislature. The Washington state patrol shall report to the house and senate transportation committees by November 30, 2005, on the updated policies, processes, and procedures. Once the policies and procedures are completed, other law enforcement agencies may adopt the policies and procedures for their agencies. [2005 c 27 § 2.]

Intent—2005 c 27: "It is the intent of the legislature that accidents involving Washington state patrol officers follow a process that provides a high degree of integrity and credibility both within the investigation of the accident and the perception of the investigation from persons outside the investigation. It is the intent of the legislature to have a communication process in place for the Washington state patrol to communicate accident information to the persons and their families who are involved in the vehicle accidents. It is the intent of the legislature to have early detections in place to reduce future vehicle accidents." [2005 c 27 § 1.]

Additional notes found at www.leg.wa.gov

43.43.112 Private law enforcement off-duty employment—Guidelines. Washington state patrol officers may engage in private law enforcement off-duty employment, in uniform or in plainclothes for private benefit, subject to guidelines adopted by the chief of the Washington state patrol. These guidelines must ensure that the integrity and professionalism of the Washington state patrol is preserved. Use of Washington state patrol officer's uniforms shall be considered de minimis use of state property. [2005 c 124 § 1; 1997 c 375 § 1.]

43.43.115 Real property—Sale or disposal of surplus—Distribution of proceeds. Whenever real property owned by the state of Washington and under the jurisdiction of the Washington state patrol is no longer required, it may be sold at fair market value, or otherwise disposed as permitted under RCW 39.33.015. Any such sale or disposal must be in accordance with RCW 43.17.400. All proceeds received from the sale of real property, less any real estate broker commissions up to four percent of the sale price, shall be deposited into the state patrol highway account: PROVIDED, That if accounts or funds other than the state patrol highway account have contributed to the purchase or improvement of the real property, the office of financial management shall determine the proportional equity of each account or fund in the property and improvements, and shall direct the proceeds to be deposited proportionally therein. [2018 c 217 § 6; 1993 c 438 § 1.]

43.43.120 Patrol retirement system—Definitions. As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief;

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

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

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001, and prior to July 1, 2017. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(b) "Salary," for members commissioned from July 1, 2001, to December 31, 2002, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(c) "Salary," for members commissioned on or after January 1, 2003, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(d) The addition of overtime earnings related to RCW 47.46.040 or any voluntary overtime earned on or after July 1, 2017, in chapter 181, Laws of 2017 is a benefit improvement that increases the member maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

(22)(a) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(b) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (3)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

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

(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender. [2021 c 12 § 8; 2020 c 97 § 2; 2017 c 181 § 1; 2011 1st sp.s. c 5 § 6; 2010 2nd sp.s. c 1 § 907; 2010 1st sp.s. c 32 § 9. Prior: 2009 c 549 § 5124; 2009 c 522 § 1; 2001 c 329 § 3; 1999 c 74 § 1; 1983 c 81 § 1; 1982 1st ex.s. c 52 § 24; 1980 c 77 § 1; 1973 1st ex.s. c 180 § 1; 1969 c 12 § 1; 1965 c 8 § 43.43.120; prior: 1955 c 244 § 1; 1953 c 262 § 1; 1951 c 140 § 1; 1947 c 250 § 1; Rem. Supp. 1947 § 6362-81.]

Retroactive application—2021 c 12: See note following RCW 41.26.030.

Intent—2020 c 97: "(1) In 2001, the legislature passed chapter 329, Laws of 2001 which, beginning July 1, 2001, removed the ability for newly commissioned officers in the Washington state patrol to include certain types of earnings in their final average salary used for calculating their pension at the time of retirement. Chapter 329, Laws of 2001 also created the Washington state patrol retirement system plan 2 which applied to commissioned employees who first become members of the system on or after January 1, 2003.

(2) The legislature intends to allow state patrol troopers who were commissioned between July 1, 2001, and December 31, 2002, to include unused

vacation, annual leave, and holiday pay in their salary average at retirement." [2020 c 97 § 1.]

Intent—Conflict with federal requirements—Effective date—2010 1st sp.s. c 32: See notes following RCW 42.04.060.

Additional notes found at www.leg.wa.gov

43.43.130 Retirement fund created—Membership.

(1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he or she shall be treated in all respects as a new employee.

(3)(a) A member who reenters or has reentered service within ten years from the date of his or her termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus interest as determined by the director, which restoration must be completed within five years after resumption of service, be returned to the status of membership he or she earned at the time of termination.

(b) A member who does not meet the time limitations for restoration under (a) of this subsection, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2) prior to retirement.

(4)(a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in (b) of this subsection.

(b) Within sixty days of notification of a member's cadet service transfer as provided in (a) of this subsection, the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(5) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his or her service in such armed forces credited to him or her as a member of

the retirement system: PROVIDED, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(6) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(7) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, or who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system if they have not met the time limitations of subsection (6) of this section by paying the amount required under RCW 41.50.165(2) less the contributions transferred. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system that constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in subsection (6) of this section for making the elective transfer.

(8) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) If the payment required under (b) of this subsection was not made by July 1, 1988, the member may establish the probationary service by paying the amount required under RCW 41.50.165(2).

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(d) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

(9) The department of retirement systems shall make the requested transfer subject to the conditions specified in subsections (6) and (7) of this section or establish additional credit as provided in subsection (8) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system. [2009 c 549 § 5125; 1994 c 197 § 33; 1987 c 215 § 1; 1986 c 154 § 1; 1983 c 81 § 2; 1980 c 77 § 2; 1965 c 8 § 43.43.130. Prior: 1953 c 262 § 2; 1951 c 140 § 2; 1947 c 250 § 2; Rem. Supp. 1947 § 6362-82.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Additional notes found at www.leg.wa.gov

43.43.135 Membership in more than one retirement system. In any case where the Washington state patrol retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, an employee holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who is by reason of his or her current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan, shall be allowed membership rights should the agreement so provide. [2009 c 549 § 5126; 1965 c 8 § 43.43.135. Prior: 1951 c 140 § 10.]

43.43.137 Reestablishment of service credit by former members who are members of the public employees' retirement system—Conditions. Former members of the retirement system established under this chapter who are currently members of the retirement system governed by chapter 41.40 RCW are permitted to reestablish service credit with the system subject to the following:

(1) The former member must have separated and withdrawn contributions from the system prior to January 1, 1966, and not returned to membership since that date;

(2) The former member must have been employed by the department of licensing, or its predecessor agency, in a capacity related to drivers' license examining within thirty days after leaving commissioned status with the state patrol; and

(3) The former member must make payment to the system of the contributions withdrawn with interest at the rate set by the director from the date of withdrawal to the date of repayment. Such payment must be made no later than June 30, 1986. [1986 c 154 § 2.]

43.43.138 Establishing, restoring service credit. Notwithstanding any provision to the contrary, persons who fail to:

(1) Establish allowable membership service not previously credited;

(2) Restore all or a part of that previously credited membership service represented by withdrawn contributions; or

(3) Restore service credit represented by a lump sum payment in lieu of benefits, before the deadline established by statute, may do so under the conditions set forth in RCW 41.50.165. [1998 c 17 § 5.]

43.43.139 Membership while serving as state legislator—Conditions. Any member of the retirement system who, on or after January 1, 1995, is on leave of absence for the purpose of serving as a state legislator, may elect to continue to be a member of this retirement system. The member shall continue to receive service credit subject to the following:

- (1) The member will not receive more than one month's service credit in a calendar month;
- (2) Employer contributions shall be paid by the legislature;
- (3) Contributions shall be based on the regular compensation which the member would have received had such a member not served in the legislature;
- (4) The service and compensation credit under this section shall be granted only for periods during which the legislature is in session; and
- (5) No service credit for service as a legislator will be allowed after a member separates from employment with the Washington state patrol. [1997 c 123 § 1.]

43.43.142 Retirement board abolished—Transfer of powers, duties, and functions. The retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 18.]

Additional notes found at www.leg.wa.gov

43.43.165 Board may receive contributions from any source. Contributions may be received by the Washington state patrol retirement board from any public or private source for deposit into the Washington state patrol retirement fund, and said contributions shall be dealt with in the same manner as other state patrol retirement funds and subject to the terms of the contribution. [1965 c 8 § 43.43.165. Prior: 1955 c 244 § 4.]

43.43.220 Retirement fund—Expenses. The Washington state patrol retirement fund shall be the fund from which shall be paid all retirement allowances or benefits in lieu thereof which are payable as provided herein. The expenses of operating the retirement system shall be paid from appropriations made for the operation of the Washington state patrol. [1989 c 273 § 25; 1973 1st ex.s. c 180 § 2; 1965 c 8 § 43.43.220. Prior: 1961 c 93 § 1; 1957 c 162 § 2; 1951 c 140 § 3; 1947 c 250 § 11; Rem. Supp. 1947 § 6362-91.]

43.43.230 Total service credit. Subject to the provisions of RCW 43.43.260, at retirement, the total service credited to a member shall consist of all the member's current service and accredited prior service. [1982 1st ex.s. c 52 § 25; 1965 c 8 § 43.43.230. Prior: 1953 c 262 § 3; 1947 c 250 § 12; Rem. Supp. 1947 § 6362-92.]

Additional notes found at www.leg.wa.gov

43.43.233 Purchase of additional service credit—Costs—Rules. (1) A member eligible to retire under RCW 43.43.250 may, at the time of filing a written application for retirement with the department, apply to the department to make a one-time purchase of up to five years of additional service credit.

(2) To purchase additional service credit under this section, a member shall pay the actuarial equivalent value of the resulting increase in the member's benefit.

(3) Subject to rules adopted by the department, a member purchasing additional service credit under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(4) Additional service credit purchased under this section is not membership service and shall be used exclusively to provide the member with a monthly annuity that is paid in addition to the member's retirement allowance. [2006 c 214 § 6.]

Additional notes found at www.leg.wa.gov

43.43.235 Service credit for paid leave of absence. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided under the provisions of RCW 43.43.120 through 43.43.310.

(2) A member who receives compensation from an employer while on an authorized leave of absence to serve as an elected official of a labor organization, and whose employer is reimbursed by the labor organization for the compensation paid to the member during the period of absence, may also be considered to be on a paid leave of absence. This subsection shall only apply if the member's leave of absence is authorized by a collective bargaining agreement that provides that the member retains seniority rights with the employer during the period of leave. The basic salary reported for a member who establishes service credit under this subsection may not be greater than the salary paid to the highest paid job class covered by the collective bargaining agreement. [2000 c 78 § 1.]

Additional notes found at www.leg.wa.gov

43.43.240 Legal adviser. The attorney general shall be the legal adviser of the retirement board. [1965 c 8 § 43.43.240. Prior: 1947 c 250 § 13; Rem. Supp. 1947 § 6362-93.]

43.43.250 Retirement of members. (1)(a) Until July 1, 2007, any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which the member has attained the age of sixty. However, the requirement to retire at age sixty does not

apply to a member serving as chief of the Washington state patrol.

(b) Beginning July 1, 2007, any active member who has obtained the age of sixty-five years shall be retired on the first day of the calendar month next succeeding that in which the member has attained the age of sixty-five. However, the requirement to retire at age sixty-five does not apply to a member serving as chief of the Washington state patrol.

(2) Any member who has completed twenty-five years of credited service or has attained the age of fifty-five may apply to retire as provided in RCW 43.43.260, by completing and submitting an application form to the department, setting forth at what time the member desires to be retired. [2007 c 87 § 1; 1982 1st ex.s. c 52 § 26; 1975-'76 2nd ex.s. c 116 § 1; 1969 c 12 § 3; 1965 c 8 § 43.43.250. Prior: 1963 c 175 § 1; 1957 c 162 § 3; 1951 c 140 § 4; 1947 c 250 § 14; Rem. Supp. 1947 § 6362-94.]

Additional notes found at www.leg.wa.gov

43.43.260 Benefits—Military service credit. Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3)(a) Any member commissioned prior to January 1, 2003, with twenty-five years service in the Washington state patrol may have the member's service in the uniformed services credited as a member whether or not the individual left the employ of the Washington state patrol to enter such uniformed services: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or as provided under RCW 43.43.130, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150.

(b) A member who leaves the Washington state patrol to enter the uniformed services of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(i) The member qualifies for service credit under this subsection if:

(A) Within ninety days of the member's honorable discharge from the uniformed services of the United States, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the uniformed services; and

(B) The member makes the employee contributions required under RCW 41.45.0631 and 41.45.067 within five

years of resumption of service or prior to retirement, whichever comes sooner; or

(C) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2); or

(D) If the member was commissioned on or after January 1, 2003, and, prior to retirement, the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(ii) Upon receipt of member contributions under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection, or adequate proof under (b)(i)(D), (b)(iv)(D), or (b)(v)(D) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.45.060 for the period of military service, plus interest as determined by the department.

(iii) The contributions required under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(iv) The surviving spouse or lawful domestic partner or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or lawful domestic partner or eligible child or children:

(A) Provides to the director proof of the member's death while serving in the uniformed services;

(B) Provides to the director proof of the member's honorable service in the uniformed services prior to the date of death; and

(C) If the member was commissioned on or after January 1, 2003, pays the employee contributions required under chapter 41.45 RCW within five years of the date of death or prior to the distribution of any benefit, whichever comes first; or

(D) If the member was commissioned on or after January 1, 2003, and, prior to the distribution of any benefit, provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. If the deceased member made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005, the surviving spouse or eligible child or children may, prior to the distribution of any benefit and on a form provided by the department, request a

refund of the funds standing to the deceased member's credit for up to five years of such service, and this amount shall be paid to the surviving spouse or children. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(v) A member who leaves the employ of an employer to enter the uniformed services of the United States and becomes totally incapacitated for continued employment by an employer while serving in the uniformed services is entitled to retirement system service credit under this subsection up to the date of discharge from the uniformed services if:

(A) The member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while serving in the uniformed services;

(B) The member provides to the director proof of honorable discharge from the uniformed services; and

(C) If the member was commissioned on or after January 1, 2003, the member pays the employee contributions required under chapter 41.45 RCW within five years of the director's determination of total disability or prior to the distribution of any benefit, whichever comes first; or

(D) If the member was commissioned on or after January 1, 2003, and, prior to retirement, the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) Beginning July 1, 2001, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(a) The original dollar amount of the retirement allowance;

(b) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(c) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(d) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(i) Produce a retirement allowance which is lower than the original retirement allowance;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future. [2021 c 98 § 1. Prior: 2009 c 522 § 2; 2009 c 205 § 9; 2005 c 64 § 10; 2002 c 27 § 3; 2001 c 329 § 4; 1994 c 197 § 34; 1982 1st ex.s. c 52 § 27; 1973 1st ex.s. c 180 § 3; 1971 ex.s. c 278 § 1; 1969 c 12 § 4; 1965 c 8 § 43.43.260; prior: 1963 c 175 § 2; 1957 c 162 § 4; 1955 c 244 § 2; 1951 c 140 § 5; 1947 c 250 § 15; Rem. Supp. 1947 § 6362-95.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Additional notes found at www.leg.wa.gov

43.43.263 Effect of certain accumulated vacation leave on retirement benefits. RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 5.]

43.43.264 Benefit calculation—Limitation. (1) The annual compensation taken into account in calculating retiree benefits under this system shall not exceed the limits imposed by section 401(a)(17) of the federal internal revenue code for qualified trusts.

(2) The department shall adopt rules as necessary to implement this section. [1995 c 145 § 4.]

43.43.270 Retirement allowances—Survivors of disabled members—Members commissioned before January 1, 2003. For members commissioned prior to January 1, 2003:

(1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.

(2) If a member should die while in service, or a member leaves the employ of the employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, the member's lawful spouse or lawful domestic partner shall be paid an allowance which shall be equal to fifty percent of the average final salary of the member. If the member should die after retirement the member's lawful spouse or lawful domestic partner shall be paid an allowance which shall be equal to the retirement allowance then payable to the member or fifty percent of the final average salary used in computing the member's retirement allowance, whichever is less. The allowance paid to the lawful spouse or lawful domestic partner shall continue as long as the spouse or domestic partner lives: PROVIDED, That if a surviving spouse or domestic partner who is receiving benefits under this subsection marries, or enters into a domestic partnership with, another member of this retirement system who subsequently predeceases such spouse or domestic partner, the spouse or domestic partner shall then be entitled to receive the higher of the two survi-

vors' allowances for which eligibility requirements were met, but a surviving spouse or domestic partner shall not receive more than one survivor's allowance from this system at the same time under this subsection. To be eligible for an allowance the lawful surviving spouse or lawful domestic partner of a retired member shall have been married to, or in a domestic partnership with, the member prior to the member's retirement and continuously thereafter until the date of the member's death or shall have been married to, or in a domestic partnership with, the retired member at least two years prior to the member's death. The allowance paid to the lawful spouse or lawful domestic partner may be divided with an ex spouse or ex domestic partner of the member by a dissolution order as defined in RCW 41.50.500(3) incident to a dissolution occurring after July 1, 2002. The dissolution order must specifically divide both the member's benefit and any spousal or domestic partner survivor benefit, and must fully comply with RCW 41.50.670 and 41.50.700.

(3) If a member should die, either while in service or after retirement, the member's surviving unmarried children under the age of eighteen years shall be provided for in the following manner:

(a) If there is a surviving spouse or domestic partner, each child shall be entitled to a benefit equal to five percent of the final average salary of the member or retired member. The combined benefits to the surviving spouse or domestic partner and all children shall not exceed sixty percent of the final average salary of the member or retired member; and

(b) If there is no surviving spouse or domestic partner or the spouse or domestic partner should die, the child or children shall be entitled to a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary of the member or retired member. Payments under this subsection shall be prorated equally among the children, if more than one.

(4) If a member should die in the line of duty while employed by the Washington state patrol, or a member leaves the employ of the employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, the member's surviving children under the age of twenty years and eleven months if attending any high school, college, university, or vocational or other educational institution accredited or approved by the state of Washington shall be provided for in the following manner:

(a) If there is a surviving spouse or domestic partner, each child shall be entitled to a benefit equal to five percent of the final average salary of the member. The combined benefits to the surviving spouse or domestic partner and all children shall not exceed sixty percent of the final average salary of the member;

(b) If there is no surviving spouse or domestic partner or the spouse or domestic partner should die, the unmarried child or children shall be entitled to receive a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children

under this subsection shall not exceed sixty percent of the final average salary. Payments under this subsection shall be prorated equally among the children, if more than one; and

(c) If a beneficiary under this subsection reaches the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of that term.

(5)(a) The provisions of this section shall apply to members who have been retired on disability as provided in RCW 43.43.040 if the officer was a member of the Washington state patrol retirement system at the time of such disability retirement.

(b) For the purposes of this subsection, average final salary as used in subsection (2) of this section means:

(i) For members commissioned prior to January 1, 2003, the average monthly salary received by active members of the patrol of the rank at which the member became disabled, during the two years prior to the death of the disabled member; and

(ii) For members commissioned on or after January 1, 2003, the average monthly salary received by active members of the patrol of the rank at which the member became disabled, during the five years prior to the death of the disabled member.

(c) The changes to the definitions of average final salary for the survivors of disabled members in this subsection shall apply retroactively. The department shall correct future payments to eligible survivors of members disabled prior to June 7, 2006, and, as soon as administratively practicable, pay each survivor a lump sum payment reflecting the difference, as determined by the director, between the survivor benefits previously received by the member, and those the member would have received under the definitions of average final salary created in chapter 94, Laws of 2006. [2009 c 522 § 3; 2009 c 226 § 3; 2006 c 94 § 1; 2002 c 158 § 15; 2001 c 329 § 6; 1989 c 108 § 1; 1984 c 206 § 1; 1982 1st ex.s. c 52 § 28; 1973 2nd ex.s. c 14 § 3; 1973 1st ex.s. c 180 § 4. Prior: 1969 c 12 § 6; 1965 c 8 § 43.43.270; prior: 1963 c 175 § 3; 1961 c 93 § 2; 1951 c 140 § 6; 1947 c 250 § 16; Rem. Supp. 1947 § 6362-96.]

Reviser's note: This section was amended by 2009 c 226 § 3 and by 2009 c 522 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

43.43.271 Retirement allowances—Members commissioned on or after January 1, 2003—Court-approved property settlement.

(1) A member commissioned on or after January 1, 2003, upon retirement for service as prescribed in RCW 43.43.250 shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. However, if the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such design-

nated person or persons still living at the time of the retiree's death, then to the surviving spouse or domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or in a domestic partnership, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married or in a domestic partnership and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. This benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless consent by the spouse or domestic partner is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spouse or domestic partner consent provisions of (a) of this subsection do not apply.

(3) No later than January 1, 2003, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement marriage or domestic partnership provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a non-spouse or a nondomestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who has completed at least five years of service and the member's divorcing spouse or former domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the spouse or domestic partner consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 43.43.250(2) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or former domestic partner shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

(5) Beginning on the date that the state receives a determination from the federal internal revenue service that this subsection (5) conforms with federal law, retirees have up to ninety calendar days after the receipt of their first retirement allowance to change their survivor election under subsections (1) and (2) of this section. If a member changes the member's survivor election under this subsection the change is effective the first of the following month and is prospective only. [2020 c 161 § 8; 2019 c 102 § 10; 2009 c 522 § 4; 2003 c 294 § 14; 2002 c 158 § 16; 2001 c 329 § 5.]

Additional notes found at www.leg.wa.gov

43.43.274 Minimum retirement allowance—Annual adjustment. Effective January 1, 2003, the minimum retirement allowance under RCW 43.43.260 and 43.43.270(2) in effect on January 1, 2002, shall be increased by three percent. Each January 1st thereafter, the minimum retirement allowance of the preceding year shall be increased by three percent. [2001 c 329 § 8; 1999 c 74 § 3; 1997 c 72 § 1.]

Additional notes found at www.leg.wa.gov

43.43.278 Retirement option. By July 1, 2000, the department of retirement systems shall adopt rules that allow a member to select an actuarially equivalent retirement option that pays the member a reduced retirement allowance and upon death shall be continued throughout the life of a lawful surviving spouse or lawful domestic partner. The continuing allowance to the lawful surviving spouse or lawful domestic partner shall be subject to the yearly increase provided by RCW 43.43.260(5). The allowance to the lawful surviving spouse or lawful domestic partner under this section, and the allowance for an eligible child or children under RCW 43.43.270, shall not be subject to the limit for combined benefits under RCW 43.43.270. [2009 c 522 § 5; 2001 c 329 § 9; 2000 c 186 § 9; 1999 c 74 § 4.]

Additional notes found at www.leg.wa.gov

43.43.280 Repayment of contributions on death or termination of employment—Election to receive reduced retirement allowance at age fifty-five. (1) If a member dies before retirement, and has no surviving spouse or domestic partner or children under the age of eighteen years, all contributions made by the member, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under RCW 43.43.130 (2), (3), and (4) and, the individual may withdraw the member's contributions to the retirement fund, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply. [2009 c 522 § 6; 1994 c 197 § 35; 1991 c 365 § 32; 1987 c 215 § 2; 1982 1st

(2022 Ed.)

ex.s. c 52 § 29; 1973 1st ex.s. c 180 § 5; 1969 c 12 § 7; 1965 c 8 § 43.43.280. Prior: 1961 c 93 § 3; 1951 c 140 § 7; 1947 c 250 § 17; Rem. Supp. 1947 § 6363-97.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Additional notes found at www.leg.wa.gov

43.43.285 Special death benefit—Course of employment—Occupational disease or infection—Annual adjustment. (1) A two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2)(a) The benefit under this section shall be paid only where death occurs as a result of (i) injuries sustained in the course of employment; or (ii) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(b) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(5), shall include reimbursement for any payments of premium rates to the Washington state health care authority under RCW 41.05.080.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A";

(ii) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index — Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(4) In addition to the survivor benefit payable under RCW 43.43.270 or 43.43.271, if the surviving spouse or domestic partner of a member whose death occurs as a result

of (a) injuries sustained in the course of employment; or (b) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter is not eligible to receive industrial insurance payments pursuant to RCW 51.32.050 due to remarriage, the surviving spouse or domestic partner shall receive an amount equal to the benefit they would receive pursuant to RCW 51.32.050 but for the remarriage. This subsection applies to surviving spouses whose benefits under RCW 51.32.050 were suspended or terminated due to remarriage prior to July 24, 2015. The monthly payments to any surviving spouse or domestic partner who received a lump sum payment pursuant to RCW 51.32.050 shall be actuarially reduced to reflect the amount of the lump sum payment. [2015 c 78 § 2; 2010 c 261 § 7; 2009 c 522 § 7. Prior: 2007 c 488 § 1; 2007 c 487 § 9; 1996 c 226 § 2.]

Additional notes found at www.leg.wa.gov

43.43.286 Rights reserved to the legislature—No future contractual rights. The legislature reserves the right to amend or repeal the reimbursement provisions of chapter 488, Laws of 2007 in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time. [2007 c 488 § 4.]

Additional notes found at www.leg.wa.gov

43.43.290 Status in case of disablement. A person receiving benefits under RCW 43.43.040 will be a nonactive member. If any person who is or has been receiving benefits under RCW 43.43.040 returns or has returned to active duty with the Washington state patrol, the person shall become an active member of the retirement system on the first day of reemployment. The person may acquire service credit for the period of disablement by paying into the retirement fund all contributions required based on the compensation which would have been received had the person not been disabled. To acquire service credit, the person shall complete the required payment within five years of return to active service or prior to retirement, whichever occurs first. Persons who return to active service prior to July 1, 1982, shall complete the required payment within five years of July 1, 1982, or prior to retirement, whichever occurs first. No service credit for the disability period may be allowed unless full payment is made. Interest shall be charged at the rate set by the director of retirement systems from the date of return to active duty or from July 1, 1982, whichever is later, until the date of payment. The Washington state patrol shall pay into the retirement system the amount which it would have contributed had the person not been disabled. The payment shall become due and payable, in total, when the person makes the first payment. If the person fails to complete the full payment required within the time period specified, any payments made to the retirement fund under this section shall be refunded with interest and any payment by the Washington state patrol to the retirement fund for this purpose shall be refunded. [1982 1st ex.s. c 52 § 30; 1965 c 8 § 43.43.290. Prior: 1947 c 250 § 18; Rem. Supp. 1947 § 6362-98.]

Additional notes found at www.leg.wa.gov

43.43.295 Accumulated contributions—Payment upon death of member. (1) For members commissioned on

or after January 1, 2003, except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) If a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or domestic partner or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 43.43.260, actuarially reduced, except under subsection (4) of this section, by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 43.43.278 and if the member was not eligible for normal retirement at the date of death a further reduction from age fifty-five or when the member could have attained twenty-five years of service, whichever is less; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated under this section making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, and is not survived by a spouse or domestic partner or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement if the member was not eligible for normal retirement or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 43.43.278. The member is entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five. [2010 c 261 § 6. Prior: 2009 c 522 § 8; 2009 c 226 § 4; 2004 c 171 § 1; 2004 c 170 § 1; 2003 c 294 § 15; 2001 c 329 § 7.]

Additional notes found at www.leg.wa.gov

43.43.310 Benefits exempt from taxation and legal process—Assignability—Exceptions—Deductions for group insurance premiums or for state patrol memorial foundation contributions. (1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever, whether the same be in actual possession of the person or be deposited or loaned and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to *RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

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(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation. [2012 c 159 § 28; 1991 c 365 § 23; 1989 c 360 § 29. Prior: 1987 c 326 § 25; 1987 c 63 § 1; 1982 1st ex.s. c 52 § 31; 1979 ex.s. c 205 § 8; 1977 ex.s. c 256 § 1; 1965 c 8 § 43.43.310; prior: 1951 c 140 § 8; 1947 c 250 § 20; Rem. Supp. 1947 § 6362-100.]

*Reviser's note: RCW 26.23.060 was amended by 2021 c 35 § 15, changing "notice of payroll deduction" to "income withholding order."

Additional notes found at www.leg.wa.gov

43.43.315 Optional actuarially equivalent life annuity benefit. (1) At the time of retirement, members may purchase an optional actuarially equivalent life annuity benefit from the Washington state patrol retirement fund established in RCW 43.43.130. A minimum payment of twenty-five thousand dollars is required.

(2) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) "Eligible retirement plan" means a tax qualified plan offered by a governmental employer. [2015 c 111 § 1.]

43.43.320 Penalty for falsification. Any person who knowingly makes any false statement or falsifies or permits to be falsified any record or records of the Washington state patrol retirement fund in any attempt to defraud such fund shall be guilty of a gross misdemeanor. [1965 c 8 § 43.43.320. Prior: 1947 c 250 § 21; Rem. Supp. 1947 § 6362-101.]

43.43.330 Examinations for promotion. Appropriate examinations shall be conducted for the promotion of commissioned patrol officers to the rank of sergeant and lieutenant. The examinations shall be prepared and conducted under the supervision of the chief of the Washington state patrol, who shall cause at least thirty days written notice thereof to be given to all patrol officers eligible for such examinations. The written notice shall specify the expected type of examination and relative weights to be assigned if a combination of tests is to be used. Examinations shall be given once every two years, or whenever the eligible list becomes exhausted as the case may be. After the giving of each such examination a new eligible list shall be compiled replacing any existing eligible list for such rank. Only grades attained in the last examination given for a particular rank

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shall be used in compiling each eligible list therefor. The chief, or in his or her discretion a committee of three individuals appointed by him or her, shall prepare and conduct the examinations, and thereafter grade and evaluate them in accordance with the following provisions, or factors: For promotion to the rank of sergeant or lieutenant, the examination shall consist of one or more of the following components: (1) Oral examination; (2) written examination; (3) service rating; (4) personnel record; (5) assessment center or other valid tests that measures the skills, knowledge, and qualities needed to perform these jobs. A cutoff score may be set for each testing component that allows only those scoring above the cutoff on one component to proceed to take a subsequent component. [2009 c 549 § 5127; 1993 c 155 § 1; 1985 c 4 § 1; 1969 ex.s. c 20 § 1; 1965 c 8 § 43.43.330. Prior: 1959 c 115 § 1; 1949 c 192 § 2; Rem. Supp. 1949 § 6362-61a.]

43.43.340 Eligible list, and promotions therefrom—Affirmative action. (1) The names of all officers who have passed examinations satisfactorily shall be placed on an eligible list in the order of the grade attained in the examinations. The chief, or the committee mentioned in RCW 43.43.330 at the chief's request, may determine the lowest examination grade which will qualify an officer for inclusion of his or her name on an eligible list. Examination papers shall be graded promptly and an eligible list shall be made up immediately thereafter. All officers taking an examination shall be informed of the grade earned.

(2) After an eligible list is made up all promotions shall be made from the five top names on the applicable list, and if needed to comply with affirmative action goals three additional names referred under subsection (3) of this section. Not all three additional names need be promoted at the time they are referred and they may be referred more than once. Each officer shall be informed in writing as his or her name is included in the top five on an eligible list or referred under subsection (3) of this section. No officer whose name appears within the top five on any eligible list shall be passed over for promotion more than three times.

(3) If the vacancy to be filled is identified as part of the state patrol's affirmative action goals as established under its affirmative action plan, the chief may refer for consideration up to three additional names per vacancy of individuals who are on the eligible list and who are members of one or more of the protected groups under Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, or for federal contract compliance purposes, veterans and disabled veterans as defined in the Vietnam Era Veterans Readjustment Act of 1974, Title 41 C.F.R., chapter 60, part 60-250.

The three additional names referred for each vacancy shall be the top three members of the protected groups designated by the chief for referral for that vacancy in accordance with the state patrol's affirmative action goals. These names shall be drawn in rank order from the remaining names of protected group members on the eligible list, after ranking by examination grade. For each vacancy, a total of three supplementary names may be referred.

(4) After having qualified for promotion hereunder an officer must pass a medical examination and must be certified as to physical fitness to perform the duties of the

advanced position by one of three doctors designated by the chief of the Washington state patrol.

(5) The state patrol shall consult with the human rights commission in the development of rules pertaining to affirmative action. The state patrol shall transmit a report annually to the human rights commission which states the progress the state patrol has made in meeting affirmative action goals and timetables. [1985 c 365 § 6; 1965 c 8 § 43.43.340. Prior: 1949 c 192 § 3; Rem. Supp. 1949 § 6362-61b.]

43.43.350 Determination of eligibility for examination for promotion. Eligibility for examination for promotion shall be determined as follows:

Patrol officers with one year of probationary experience, in addition to three years experience as a regular patrol officer before the date of the first examination occurrence, shall be eligible for examination for the rank of sergeant; patrol officers with one year of probationary experience in the rank of sergeant before the date of the first examination occurrence, in addition to two years as a regular sergeant, shall be eligible for examination for the rank of lieutenant. [2009 c 549 § 5128; 1998 c 193 § 1; 1969 ex.s. c 20 § 2; 1965 c 8 § 43.43.350. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.360 Probationary period. All newly appointed or promoted officers shall serve a probationary period of one year after appointment or promotion, whereupon their probationary status shall terminate, and they shall acquire regular status in the particular grade, unless given notice in writing to the contrary by the chief prior to the expiration of the probationary period. [1984 c 141 § 5; 1965 c 8 § 43.43.360. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.370 Staff or technical officers. The chief of the Washington state patrol may appoint such staff or technical officers as he or she deems necessary for the efficient operation of the patrol, and he or she may assign whatever rank he or she deems necessary to such staff or technical officers for the duration of their service as such.

Staff or technical officers may be returned to their line rank or position whenever the chief so desires. Staff or technical officers without line command assignment and whose duties are of a special or technical nature shall hold their staff or technical rank on a continuing probationary basis; however, such staff or technical officers, if otherwise eligible, shall not be prevented from taking the line promotion examinations, and qualifying for promotion whenever the examinations may be held.

If a staff or technical officer returns to line operations he or she shall return in the rank that he or she holds in the line command, unless promoted to a higher rank through examination and appointment as herein provided: PROVIDED, Nothing contained herein shall be construed as giving the chief the right to demote or to reduce the rank of any officer of the patrol who was holding such office on April 1, 1949. [2009 c 549 § 5129; 1965 c 8 § 43.43.370. Prior: 1949 c 192 § 5; Rem. Supp. 1949 § 6362-61d.]

43.43.380 Minimum salaries—Report. (1)(a) The minimum monthly salary paid to state patrol troopers and ser-

geants must be competitive with law enforcement agencies within the boundaries of the state of Washington, guided by the results of a survey undertaken in the collective bargaining process during each biennium. Compensation must be calculated using base salary, premium pay (a pay received by more than a majority of employees), education pay, and longevity pay. The compensation comparison data is based on the Washington state patrol and the law enforcement agencies listed in this section. Increases for sergeants will be extended to the salary levels for captains and lieutenants through the collective bargaining process to ensure proportionality of increases.

(b)(i) Until July 1, 2028, the comparisons for determining competitiveness with other law enforcement agency salary levels must be guided by the average of compensation paid to the corresponding rank from the Seattle police department, King county sheriff's office, Tacoma police department, Snohomish county sheriff's office, Spokane police department, and Vancouver police department.

(ii) Beginning July 1, 2028, the comparisons for determining competitiveness with other law enforcement agency salary levels must be guided by the average of compensation paid to the corresponding rank from the Seattle police department, King county sheriff's office, Tacoma police department, Snohomish county sheriff's office, Spokane police department, and Vancouver police department, unless the office of financial management determines that one or more agencies should be replaced in this comparison with another law enforcement agency pursuant to the periodic evaluation process specified in (b)(iii) of this subsection.

(iii) By January 1, 2028, and each decade thereafter, the office of financial management must conduct an evaluation of the six agencies that are relevant for comparison to ensure state patrol troopers and sergeant salary levels are competitive with other law enforcement agencies within the boundaries of the state of Washington. If the office of financial management determines that one or more agencies specified in (b)(ii) of this subsection should be replaced in this comparison with a different law enforcement agency that is more relevant to ensure salary competitiveness, the office of financial management may utilize that revised compensation comparison data in the survey undertaken in the collective bargaining process during each biennium.

(2) By December 1, 2024, as part of the salary survey required in this section, the office of financial management must report to the governor and transportation committees of the legislature on the efficacy of Washington state patrol recruitment and retention efforts. Using the results of the 2016 salary survey as the baseline data, the report must include an analysis of voluntary resignations of state patrol troopers and sergeants and a comparison of state patrol academy class sizes and trooper graduations. [2022 c 131 § 1; 2018 c 140 § 1; 2016 c 28 § 5; 1965 c 8 § 43.43.380. Prior: 1949 c 192 § 6; Rem. Supp. 1949 § 6362-61e.]

Intent—2016 c 28: "It is the intent of the legislature to recruit and retain the highest qualified commissioned officers of the Washington state patrol appointed under RCW 43.43.020. The "Joint Transportation Committee Recruitment and Retention Study" dated January 7, 2016, outlines several recommendations to fulfill this intent. The study recommendations were broken down into several areas, with the Washington state patrol, office of financial management, select committee on pension policy, and the legislature all supporting their respective authorizations and control over their

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respective areas of responsibility and accountability. It is also the intent of the legislature in the 2017-2019 fiscal biennium to increase the thirty dollar vehicle license fee distribution to the state patrol for the salaries and benefits of state patrol officers, including troopers, sergeants, lieutenants, and captains, and make adjustments as needed in the 2019-2021 fiscal biennium." [2016 c 28 § 1.]

43.43.390 Bicycle awareness program—Generally.

Bicycling is increasing in popularity as a form of recreation and as an alternative mode of transportation. To make bicycling safer, the various law enforcement agencies should enforce traffic regulations for bicyclists. By enforcing bicycle regulations, law enforcement officers are reinforcing educational programs. Bicycling takes more skill than most people realize. Since bicyclists have a low profile in traffic and are unprotected, they need more defensive riding skills than motorists do.

A bicycle awareness program is created within the Washington state patrol. In developing the curriculum for the bicycle awareness program the patrol shall consult with the traffic safety commission and with bicycling groups providing bicycle safety education. The patrol shall conduct the program in conjunction with the safety education officer program and may use other law enforcement personnel and volunteers to implement the program for children in grades kindergarten through six. The patrol shall ensure that each safety educator presenting the bicycle awareness program has received specialized training in bicycle safety education and has been trained in effective defensive bicycle riding skills. [1991 c 214 § 1.]

Bicycle transportation management program: RCW 47.04.190.

43.43.395 Ignition interlock devices—Standards—

Compliance. (1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ:

(i) Fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols;

(ii) Technology capable of taking a photo identification of the user giving the breath sample and recording on the photo the time the breath sample was given; and

(iii) Technology capable of providing the global positioning coordinates at the time of each test sequence. Such coordinates must be displayed within the data log that is downloaded by the manufacturer and must be made available to the state patrol to be used for circumvention and tampering investigations.

(b) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is accredited and certified under the current edition of ISO (the international organization of standardization) 17025 standard for testing and calibration laboratories and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the certification statement. The state patrol must adopt by rule the required language of the certification statement that must, at a minimum, outline that the testing meets or exceeds all specifications listed in the federal register adopted in rule by the state patrol; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol. [2015 2nd sp.s. c 3 § 11; 2013 2nd sp.s. c 35 § 9; 2012 c 183 § 16; 2010 c 268 § 2.]

Finding—Intent—2015 2nd sp.s. c 3: See note following RCW 10.21.055.

Effective date—2012 c 183: See note following RCW 9.94A.475.

43.43.3952 Ignition interlock devices—Officer required to report violations—Liability. (1) Any officer conducting field inspections of ignition interlock devices under the ignition interlock program shall report violations by program participants to the court.

(2) The Washington state patrol may not be held liable for any damages resulting from any act or omission in conducting activities under the ignition interlock program, other than acts or omissions constituting gross negligence or willful or wanton misconduct. [2013 2nd sp.s. c 35 § 35.]

43.43.396 Ignition interlock devices—Fee schedule and fee collection—Report—Fee deposit. (1) As part of the state patrol's authority to provide standards for certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, the state patrol shall by rule establish a fee schedule and collect fees from ignition interlock manufacturers, technicians, providers, and persons required under RCW 46.20.385, 46.20.720, and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. At a minimum, the

fees must be set at a level necessary to support effective performance of the duties identified in this section. The state patrol must report back to the transportation committees of the legislature and the office of financial management by December 1st of each year on the level of the fees that have been adopted and whether those fees are sufficient to cover the cost of performing the duties listed in this section.

(2) Fees collected under this section must be deposited into the highway safety account [fund] to be used solely to fund the Washington state patrol impaired driving section projects. [2012 c 183 § 15.]

Effective date—2012 c 183: See note following RCW 9.94A.475.

43.43.400 Aquatic invasive species inspection and training. (1) Money in the aquatic invasive species management account created in RCW 77.135.200 may be used by the Washington state patrol for aquatic invasive species inspection training and to inspect for the presence of aquatic invasive species on aquatic conveyances that are required to stop at a Washington state patrol port of entry weigh station.

(2) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section. [2017 3rd sp.s. c 17 § 102; 2014 c 202 § 306; 2011 c 171 § 8; 2011 c 169 § 3; 2007 c 350 § 1; 2005 c 464 § 5.]

Findings—2014 c 202: See note following RCW 77.135.010.

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Findings—Intent—2005 c 464: See note following RCW 88.02.560.

43.43.480 Routine traffic enforcement information. (1) Beginning May 1, 2000, the Washington state patrol shall collect the following information:

(a) The number of individuals stopped for routine traffic enforcement, whether or not a citation or warning was issued;

(b) Identifying characteristics of the individual stopped, including the race or ethnicity, approximate age, and gender;

(c) The nature of the alleged violation that led to the stop;

(d) Whether a search was instituted as a result of the stop; and

(e) Whether an arrest was made, or a written citation issued, as a result of either the stop or the search.

(2) The criminal justice training commission and the Washington state patrol shall compile the information required under subsection (1) of this section and make a report to the legislature no later than December 1, 2000. [2016 c 197 § 3; 2000 c 118 § 1.]

Additional notes found at www.leg.wa.gov

43.43.490 Routine traffic enforcement information—Data collection—Training materials on racial profiling.

(1) The Washington state patrol shall work with the criminal justice training commission and the Washington association of sheriffs and police chiefs to develop (a) further criteria for collection and evaluation of the data collected under RCW 43.43.480, and (b) training materials for use by the state patrol and local law enforcement agencies on the issue of racial profiling.

(2) The Washington state patrol, criminal justice training commission, and Washington association of sheriffs and police chiefs shall encourage local law enforcement agencies

to voluntarily collect the data set forth under RCW 43.43.480(1). [2000 c 118 § 2.]

Additional notes found at www.leg.wa.gov

43.43.500 Crime information center—Established—Purpose—Functions. There is established the Washington state crime information center to be located in the records division of the Washington state patrol and to function under the direction of the chief of the Washington state patrol. The center shall serve to coordinate crime information, by means of data processing, for all law enforcement agencies in the state. It shall make such use of the facilities of the law enforcement teletype system as is practical. It shall provide access to the national crime information center, to motor vehicle and driver license information, to the sex offender central registry, and to such other public records as may be accessed by data processing and which are pertinent to law enforcement. [1998 c 67 § 1; 1967 ex.s. c 27 § 1.]

Additional notes found at www.leg.wa.gov

43.43.510 Crime information center—Files of general assistance to law enforcement agencies established—Runaway children—Information publicly available. (1) As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, files maintaining the central registry of sex offenders required to register under chapter 9A.44 RCW, and such other files as may be of general assistance to law enforcement agencies.

(2)(a) At the request of a parent, legal custodian, or guardian who has reported a child as having run away from home or the custodial residence, the Washington state patrol shall make the information about the runaway child as is filed in subsection (1) of this section publicly available.

(b) The information that can be made publicly available under (a) of this subsection is limited to information that will facilitate the safe return of the child to his or her home or custodial residence and so long as making the information publicly available incurs no additional costs. [2013 c 4 § 4; 2010 c 229 § 4; 1998 c 67 § 2; 1995 c 312 § 45; 1967 ex.s. c 27 § 2.]

Findings—2010 c 229: See note following RCW 13.32A.082.

Additional notes found at www.leg.wa.gov

43.43.530 Crime information center—Cost of terminal facilities. The cost of additional terminal facilities necessary to gain access to the Washington state crime information center shall be borne by the respective agencies operating the terminal facilities. [1967 ex.s. c 27 § 4.]

43.43.540 Sex offenders and kidnapping offenders—Central registry—Reimbursement to counties. (1) The county sheriff shall forward registration information, photographs, and fingerprints obtained pursuant to RCW 9A.44.130, including the sex offender's risk level classification and any notice of change of address, to the Washington state patrol within five working days.

(2) Upon implementation of RCW 4.24.550(5)(a), the Washington state patrol shall maintain a central registry of

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sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the offender's fingerprints and photograph. [2011 c 337 § 8; 2006 c 136 § 1; 2002 c 118 § 2; 1998 c 220 § 4; 1997 c 113 § 6; 1990 c 3 § 403.]

Reviser's note: The definitions in RCW 9A.44.128 apply to this section.

Findings—1997 c 113: See note following RCW 4.24.550.

Sex offense and kidnapping offense defined: RCW 9A.44.128.

Additional notes found at www.leg.wa.gov

43.43.545 Statewide sexual assault kit tracking system. (1) The Washington state patrol shall create and operate a statewide sexual assault kit tracking system. The Washington state patrol may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(2) The statewide sexual assault kit tracking system must:

(a) Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(b) Designate sexual assault kits as unreported or reported;

(c) Indicate whether a sexual assault kit contains biological materials collected for the purpose of forensic toxicological analysis;

(d) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington state patrol bureau of forensic laboratory services, and other entities having custody of sexual assault kits to update and track the status and location of sexual assault kits;

(e) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(f) Use electronic technology or technologies allowing continuous access.

(3) The Washington state patrol may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. The Washington state patrol may phase initial participation according to region, volume, or other appropriate classifications. All entities having custody of sexual assault kits shall fully participate in the system no later than June 1, 2018. The Washington state patrol shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor no later than January 1, 2017.

(4) The Washington state patrol shall submit a semiannual report on the statewide sexual assault kit tracking system to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor. The Washington state patrol may publish the current report on its website. The first report is due July 31, 2018, and subsequent reports are due January 31st and July 31st of each year. The report must include the following:

(a) The total number of sexual assault kits in the system statewide and by jurisdiction;

(b) The total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(c) The number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(d) The total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(e) The average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(f) The average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(g) The total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(h) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(i) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(5) For the purpose of reports under subsection (4) of this section, a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise having custody of the sexual assault kit.

(6) Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence.

(7) The Washington state patrol shall adopt rules as necessary to implement this section.

(8) For the purposes of this section:

(a) "Reported sexual assault kit" means a sexual assault kit where a law enforcement agency has received a related report or complaint alleging a sexual assault or other crime has occurred;

(b) "Sexual assault kit" includes all evidence collected during a sexual assault medical forensic examination; and

(c) "Unreported sexual assault kit" means a sexual assault kit where a law enforcement agency has not received a related report or complaint alleging a sexual assault or other crime has occurred. [2020 c 26 § 6; 2019 c 93 § 4; 2016 c 173 § 2.]

Intent—2020 c 26: See note following RCW 63.21.090.

Finding—Intent—2016 c 173: "The legislature recognizes the deep pain and suffering experienced by victims of sexual assault. Sexual assault is an extreme violation of a person's body and sense of self and safety. Sexual violence is a pervasive social problem. National studies indicate that approximately one in four women will be sexually assaulted in their lifetimes. Survivors often turn to hospitals and local law enforcement for help, and many volunteer to have professionals collect a sexual assault kit to preserve physical evidence from their bodies. The process of collecting a sexual assault kit is extremely invasive and difficult.

The legislature finds that, when forensic analysis is completed, the biological evidence contained inside sexual assault kits can be an incredibly powerful tool for law enforcement to solve and prevent crime. Forensic analysis of all sexual assault kits sends a message to survivors that they matter. It sends a message to perpetrators that they will be held accountable for their crimes. The legislature is committed to bringing healing and justice to survivors of sexual assault.

The legislature recognizes the laudable and successful efforts of law enforcement in the utilization of forensic analysis of sexual assault kits in the investigation and prosecution of crimes in Washington state. In 2015, the legislature enhanced utilization of this tool by requiring the preservation and forensic analysis of sexual assault kits. The legislature intends to continue building on its efforts through the establishment of the statewide sexual assault kit tracking system. The system will be designed to track all sexual assault kits in Washington state, regardless of when they were collected, in order to further empower survivors with information, assist law enforcement with investigations and crime prevention, and create transparency and foster public trust." [2016 c 173 § 1.]

43.43.546 Statewide sexual assault kit tracking system—Participation by bureau of forensic laboratory services. The Washington state patrol bureau of forensic laboratory services shall participate in the statewide sexual assault kit tracking system established in RCW 43.43.545 for the purpose of tracking the status of all sexual assault kits in the custody of the Washington state patrol and other entities contracting with the Washington state patrol. The Washington state patrol bureau of forensic laboratory services shall begin full participation in the system according to the implementation schedule established by the Washington state patrol. [2016 c 173 § 5.]

Finding—Intent—2016 c 173: See note following RCW 43.43.545.

43.43.550 Traffic safety education officers—Powers—Pay and reimbursement. (1) The chief of the Washington state patrol shall designate twenty-four or more officers as traffic safety education officers. The chief of the Washington state patrol shall make the designations in a manner designed to ensure that the programs under subsection (2) of this section are reasonably available in all areas of the state.

(2) The chief of the Washington state patrol may permit these traffic safety education officers to appear in their off-duty hours in uniform to give programs in schools or the community on the duties of the state patrol, traffic safety, or crime prevention.

(3) The traffic safety education officers may accept such pay and reimbursement of expenses as are approved by the state patrol from the sponsoring organization.

(4) The state patrol is encouraged to work with community organizations to set up these programs statewide. [1984 c 217 § 1.]

43.43.560 Automatic fingerprint information system—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol shall develop a plan for and implement an automatic fingerprint information system. In implementing the automatic fingerprint information system, the state patrol shall either purchase or lease the appropriate computer systems. If the state patrol leases a system, the lease agreement shall include purchase options. The state patrol shall procure the most efficient system available.

(2) The state patrol shall report on the automatic fingerprint information system to the legislature no later than January 1, 1987. The report shall include a time line for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1986 c 196 § 1.]

43.43.570 Automatic fingerprint identification system—Conditions for local establishment or operation—Rules.

(1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless both the hardware and software of the local system use an interface compatible with the state system under RCW 43.43.560. The local law enforcement agency shall be able to transmit a tenprint record to the state system through any available protocol which meets accepted industry standards, and the state system must be able to accept tenprint records which comply with those requirements. When industry transmission protocols change, the Washington state patrol shall incorporate these new standards as funding and reasonable system engineering practices permit. The tenprint transmission from any local law enforcement agency must be in accordance with the current version of the state electronic fingerprint transmission specification.

(2) No later than January 1, 2007, the Washington state patrol's automatic fingerprint identification system shall be capable of instantly accepting electronic latent search records from any Washington state local law enforcement agency. *If specific funding for the purposes of this subsection is not provided by June 30, 2006, in the omnibus appropriations act, or if funding is not obtained from another source by June 30, 2006, this subsection is null and void.

(3) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically. This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

(4) Any personnel functions necessary to prepare fingerprints for searches under this section shall be the responsibility of the submitting agency.

(5) The Washington state patrol shall adopt rules to implement this section. [2005 c 373 § 2; 1987 c 450 § 1.]

*Reviser's note: Specific funding was not provided in chapter 518, Laws of 2005 (omnibus appropriations act).

(2022 Ed.)

43.43.580 Firearms background check unit—Automated firearms background check system—Fee. (1) The Washington state patrol shall establish a firearms background check unit to serve as a centralized single point of contact for dealers to conduct background checks for firearms sales or transfers required under chapter 9.41 RCW and the federal Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.). The Washington state patrol shall establish an automated firearms background check system to conduct background checks on applicants for the purchase or transfer of a firearm. The system must include the following characteristics:

(a) Allow a dealer to contact the Washington state patrol through a web portal or other electronic means and by telephone to request a background check of an applicant for the purchase or transfer of a firearm;

(b) Provide a dealer with a notification that a firearm purchase or transfer application has been received;

(c) Assign a unique identifier to the background check inquiry;

(d) Provide an automated response to the dealer indicating whether the transfer may proceed or is denied, or that the check is indeterminate and will require further investigation;

(e) Include measures to ensure data integrity and the confidentiality and security of all records and data transmitted and received by the system; and

(f) Include a performance metrics tracking system to evaluate the performance of the background check system.

(2) Upon receipt of a request for a dealer for a background check in connection with the sale or transfer of a firearm, the Washington state patrol shall:

(a) Provide the dealer with a notification that a firearm transfer application has been received;

(b) Conduct a check of the national instant criminal background check system and the following additional records systems to determine whether the transferee is prohibited from possessing a firearm under state or federal law: (i) The Washington crime information center and Washington state identification system; (ii) the health care authority electronic database; (iii) the federal bureau of investigation national data exchange database and any available repository of statewide local law enforcement record management systems information; (iv) the administrative office of the courts case management system; and (v) other databases or resources as appropriate;

(c) Perform an equivalency analysis on criminal charges in foreign jurisdictions to determine if the applicant has been convicted as defined in RCW 9.41.040(3) and if the offense is equivalent to a Washington felony as defined in RCW 9.41.010;

(d) Notify the dealer without delay that the records indicate the individual is prohibited from possessing a firearm and the transfer is denied or that the individual is approved to complete the transfer. If the results of the background check are indeterminate, the Washington state patrol shall notify the dealer of the delay and conduct necessary research and investigation to resolve the inquiry; and

(e) Provide the dealer with a unique identifier for the inquiry.

(3) The Washington state patrol may hold the delivery of a firearm to an applicant under the circumstances provided in RCW 9.41.090 (4) and (5).

(4)(a) The Washington state patrol shall require a dealer to charge each firearm purchaser or transferee a fee for performing background checks in connection with firearms transfers. The fee must be set at an amount necessary to cover the annual costs of operating and maintaining the firearm background check system but shall not exceed eighteen dollars. The Washington state patrol shall transmit the fees collected to the state treasurer for deposit in the state firearms background check system account created in RCW 43.43.590. It is the intent of the legislature that once the state firearm background check system is established, the fee established in this section will replace the fee required in RCW 9.41.090(7).

(b) The background check fee required under this subsection does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm.

(5) The Washington state patrol shall establish a procedure for a person who has been denied a firearms transfer as the result of a background check to appeal the denial to the Washington state patrol and to obtain information on the basis for the denial and procedures to review and correct any erroneous records that led to the denial.

(6) The Washington state patrol shall work with the administrative office of the courts to build a link between the firearm background check system and the administrative office of the courts case management system for the purpose of accessing court records to determine a person's eligibility to possess a firearm.

(7) Upon establishment of the firearm background check system under this section, the Washington state patrol shall notify each dealer in the state of the existence of the system, and the dealer must use the system to conduct background checks for firearm sales or transfers beginning on the date that is thirty days after issuance of the notification.

(8) The Washington state patrol shall consult with the Washington background check advisory board created in RCW 43.43.585 in carrying out its duties under this section.

(9) All records and information prepared, obtained, used, or retained by the Washington state patrol in connection with a request for a firearm background check are exempt from public inspection and copying under chapter 42.56 RCW.

(10) The Washington state patrol may adopt rules necessary to carry out the purposes of this section.

(11) For the purposes of this section, "dealer" has the same meaning as given in RCW 9.41.010. [2022 c 105 § 7; 2020 c 28 § 1.]

Effective date—2022 c 105: See note following RCW 7.80.120.

43.43.585 Washington background check advisory board. (1) There is created the Washington background check advisory board. The board shall consist of the following members, appointed by the governor:

(a) The chief of the Washington state patrol or the chief's designee;

(b) The executive director of the Washington association of sheriffs and police chiefs or the executive director's designee;

(c) One sheriff;

(d) One police chief;

(e) One person engaged in the business of lawfully selling firearms at retail in this state who holds a federal firearms license under 18 U.S.C. Sec. 923(a); and

(f) One member of the general public.

(2) The primary purpose of the board is to ensure that the Washington state patrol firearms background check unit established in RCW 43.43.580 is administered efficiently and effectively, and in a manner that honors individual firearms rights while preventing prohibited persons from obtaining firearms.

(3) The board shall initially convene within ninety days of June 11, 2020, and shall meet not less than monthly until such time that the Washington state patrol deems the firearms background check unit is operational. After the Washington state patrol deems the firearms background check unit is operational, the board shall meet quarterly, unless the board has no business to conduct during that quarter.

(4) The board shall elect from among its membership a chairperson and other such officers from among its membership as it deems appropriate.

(5) Members of the board shall serve terms of four years each on a staggered schedule to be established by the first board. For purposes of initiating a staggered schedule of terms, some members of the first board may initially serve two years and some members may initially serve four years.

(6) The board shall:

(a) Provide input and feedback regarding the establishment and operation of the firearms background check unit established in RCW 43.43.580;

(b) Provide input on the development of the firearms background check unit budget prior to its formal submission to the office of financial management pursuant to RCW 43.88.030;

(c) Be consulted with prior to the proposal of any rule relating to the firearms background check unit and prior to the adoption of any rule relating to the firearms background check unit;

(d) Require reports from the chief of the Washington state patrol on matters pertaining to the firearms background check unit; and

(e) Report to the governor and appropriate committees of the legislature on or before December 31st of each year on the activities of the board and the firearms background check unit for the preceding fiscal year.

(7) Members of the board shall serve without compensation, but shall be reimbursed for travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(8) The Washington state patrol shall provide the staffing and budgetary resources necessary for the board to properly fulfill its duties.

(9) Members serving in their official capacity on the Washington background check advisory board, or either their employer or employers or other entity that selected the members to serve, are immune from a civil action based on an act performed in good faith. [2020 c 28 § 2.]

43.43.590 State firearms background check system account. The state firearms background check system account is created in the custody of the state treasurer. All

receipts under RCW 43.43.580 must be deposited into the account. Expenditures from the account may be used only for the creation, operation, and maintenance of the automated firearms background check system under RCW 43.43.580. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2020 c 28 § 3.]

43.43.600 Drug control assistance unit—Created. There is hereby created in the Washington state patrol a drug control assistance unit. [1970 ex.s. c 63 § 1.]

43.43.610 Drug control assistance unit—Duties. The drug control assistance unit shall provide investigative assistance for the purpose of enforcement of the provisions of chapter 69.40 RCW. [1983 c 3 § 107; 1980 c 69 § 1; 1970 ex.s. c 63 § 2.]

43.43.620 Drug control assistance unit—Additional duties—Information system on violations—Inter-unit communications network. The drug control assistance unit shall:

(1) Establish a record system to coordinate with all law enforcement agencies in the state a comprehensive system of information concerning violations of the narcotic and drug laws.

(2) Provide a communications network capable of interconnecting all offices and investigators of the unit. [1970 ex.s. c 63 § 3.]

43.43.630 Drug control assistance unit—Use of existing facilities and systems. In order to maximize the efficiency and effectiveness of state resources, the drug control assistance unit shall, where feasible, use existing facilities and systems. [1970 ex.s. c 63 § 4.]

43.43.640 Drug control assistance unit—Certain investigators exempt from state civil service act. Any investigators employed pursuant to RCW 43.43.610 shall be exempt from the state civil service act, chapter 41.06 RCW. [1980 c 69 § 3; 1970 ex.s. c 63 § 5.]

43.43.650 Drug control assistance unit—Employment of necessary personnel. The chief of the Washington state patrol may employ such criminalists, chemists, clerical and other personnel as are necessary for the conduct of the affairs of the drug control assistance unit. [1970 ex.s. c 63 § 6.]

43.43.655 Drug control assistance unit—Special narcotics enforcement unit. A special narcotics enforcement unit is established within the Washington state patrol drug control assistance unit. The unit shall be coordinated between the Washington state patrol, the attorney general, and the Washington association of sheriffs and police chiefs. The initial unit shall consist of attorneys, investigators, and the necessary accountants and support staff. It is the responsibility of the unit to: (1) Conduct criminal narcotic profiteering investigations and assist with prosecutions, (2) train local under-

cover narcotic agents, and (3) coordinate federal, state, and local interjurisdictional narcotic investigations. [1989 c 271 § 235.]

Additional notes found at www.leg.wa.gov

43.43.670 Bureau of forensic laboratory services—Powers—Priorities. (1) There is created in the Washington state patrol a bureau of forensic laboratory services system which is authorized to:

(a) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(b) Provide training assistance for local law enforcement personnel.

(c) Provide all necessary toxicology services requested by all coroners, medical examiners, and prosecuting attorneys.

(2) The bureau of forensic laboratory services shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state forensic investigations council shall assist the bureau of forensic laboratory services in devising policies to promote the most efficient use of laboratory services consistent with this section. The forensic investigations council shall be actively involved in the preparation of the bureau of forensic laboratory services budget and shall approve the bureau of forensic laboratory services budget prior to its formal submission by the state patrol to the office of financial management pursuant to RCW 43.88.030. [1999 c 40 § 6; 1995 c 398 § 1; 1980 c 69 § 2.]

Additional notes found at www.leg.wa.gov

43.43.680 Controlled substance, simulator solution analysis—Prima facie evidence. (1) In all prosecutions involving the analysis of a controlled substance or a sample of a controlled substance by the crime laboratory system of the state patrol, a certified copy of the analytical report signed by the supervisor of the state patrol's crime laboratory or the forensic scientist conducting the analysis is prima facie evidence of the results of the analytical findings.

(2) The defendant or a prosecutor may subpoena the forensic scientist who conducted the analysis of the substance to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if the subpoena is issued at least ten days prior to the trial date.

(3) In all prosecutions involving the analysis of a certified simulator solution by the Washington state toxicology laboratory of the University of Washington, a certified copy of the analytical report signed by the state toxicologist or the toxicologist conducting the analysis is prima facie evidence of the results of the analytical findings, and of certification of the simulator solution used in the BAC verifier datamaster or any other alcohol/breath-testing equipment subsequently adopted by rule.

(4) The defendant of a prosecution may subpoena the toxicologist who conducted the analysis of the simulator solution to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if thirty days prior to issuing the subpoena the defendant gives the state toxicologist notice of the defendant's intention to require the toxicologist's appearance. [1994 c 271 § 501; 1992 c 129 § 1.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

43.43.690 Crime laboratory analysis fee—Court imposition—Collection. (1) When an adult offender has been adjudged guilty of violating any criminal statute of this state and a crime laboratory analysis was performed by a state crime laboratory, in addition to any other disposition, penalty, or fine imposed, the court shall levy a crime laboratory analysis fee of one hundred dollars for each offense for which the person was convicted. Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay the fee.

(2) All crime laboratory analysis fees assessed under this section shall be collected by the clerk of the court and forwarded to the state general fund, to be used only for crime laboratories. The clerk may retain five dollars to defray the costs of collecting the fees. [2015 c 265 § 30; 1992 c 129 § 2.]

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

43.43.700 Identification and criminal history section.

There is hereby established within the Washington state patrol a section on identification and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government. [2006 c 294 § 1; 1998 c 141 § 2; 1989 c 334 § 6; 1987 c 486 § 9; 1985 c 201 § 7; 1984 c 17 § 17; 1972 ex.s. c 152 § 1.]

43.43.705 Identification data—Processing procedure—Definitions. Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies a transcript of the criminal history record information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.785 the following words and phrases shall have the following meanings:

"Criminal history record information" includes, and shall be restricted to identifying data and information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Crimi-

nal history record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(4). The applicant may appeal such determination by notifying the chief in writing within thirty days. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW and in accordance with procedures for adjudicative proceedings under chapter 34.05 RCW. [2006 c 294 § 2; 1999 c 151 § 1101; 1989 c 334 § 7; 1987 c 486 § 10; 1985 c 201 § 8; 1977 ex.s. c 314 § 14; 1972 ex.s. c 152 § 2.]

Additional notes found at www.leg.wa.gov

43.43.710 Availability of information. Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it. [1995 c 369 § 13; 1987 c 486 § 11; 1986 c 266 § 87; 1985 c 201 § 9; 1979 ex.s. c 36 § 7. Prior: 1977 ex.s. c 314 § 15; 1977 ex.s. c 30 § 1; 1972 ex.s. c 152 § 3.]

Additional notes found at www.leg.wa.gov

43.43.715 Identification—Cooperation with other criminal justice agencies. The section shall, consistent with the procedures set forth in chapter 152, Laws of 1972 ex. sess., cooperate with all other criminal justice agencies within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes to the end that proper identification may rapidly be made and the ends of justice served. [2006 c 294 § 3; 1989 c 334 § 8; 1985 c 201 § 10; 1972 ex.s. c 152 § 4.]

43.43.720 Local identification and records systems—Assistance. At the request of any criminal justice agency within this state, the section may assist such agency in the establishment of local identification and records systems. [1972 ex.s. c 152 § 5.]

43.43.725 Records as evidence. Any copy of a criminal history record, photograph, fingerprint, or other paper or document in the files of the section, certified by the chief or his or her designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040. [2006 c 294 § 4; 1985 c 201 § 11; 1972 ex.s. c 152 § 6.]

43.43.730 Records—Inspection—Copying—Requests for purge or modification—Appeals. (1) Any individual shall have the right to inspect or request a copy of the criminal history record information on file with the section which refers to the individual. If the individual believes such information to be inaccurate or incomplete, he or she may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his or her record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he or she is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting or for providing a copy of the criminal history record information pursuant to subsection (1) of this section. [2012 c 125 § 4; 2006 c 294 § 5; 1985 c 201 § 12; 1977 ex.s. c 314 § 16; 1972 ex.s. c 152 § 7.]

43.43.735 Photographing and fingerprinting—Powers and duties of law enforcement agencies—Other data. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor. (a) When such juveniles are brought directly to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to cause the photographing, fingerprinting, and record transmittal to the appropriate law enforcement agency; and (b) a further exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all adults lawfully arrested.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record,

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in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons whose photograph and fingerprints are required or allowed to be taken under this section when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he or she is charged. [2009 c 549 § 5130; 2006 c 294 § 6; 1991 c 3 § 297. Prior: 1989 c 334 § 9; 1989 c 6 § 2; prior: 1987 c 486 § 12; 1987 c 450 § 2; 1985 c 201 § 13; 1972 ex.s. c 152 § 8.]

43.43.740 Photographing and fingerprinting—Transmittal of data. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof. [2006 c 294 § 7; 1989 c 334 § 10. Prior: 1987 c 486 § 13; 1987 c 450 § 3; 1985 c 201 § 14; 1972 ex.s. c 152 § 9.]

43.43.742 Submission of fingerprints taken from persons for noncriminal purposes—Fees. The Washington state patrol shall adopt rules concerning submission of fingerprints taken by local agencies after July 26, 1987, from persons for license application or other noncriminal purposes. The Washington state patrol may charge fees for submission of fingerprints which will cover as nearly as practicable the direct and indirect costs to the Washington state patrol of processing such submission. [1987 c 450 § 4.]

43.43.745 Convicted persons, fingerprinting required, records—Furloughs, information to section, notice to local agencies—Arrests, disposition information—Convicts, information to section, notice to local agencies—Registration of sex offenders. (1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, thirty days prior to the beginning of such furlough, the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest Washington state patrol district facility in the county wherein the furloughed prisoner is to be residing, and other similar criminal

justice agencies that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the thirty-day time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state indeterminate sentence review board, or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the sheriff or director of public safety, the nearest Washington state patrol district facility, and other similar criminal justice agencies that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his or her release or discharge.

Local law enforcement agencies shall require persons convicted of sex offenses to register pursuant to RCW 9A.44.130. In addition, nothing in this section shall be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to RCW 9A.44.130 which source may include any officer or other agency or subdivision of the state.

(5) The existence of the notice requirement in subsection (2) of this section will not require any extension of the release date in the event the release plan changes after notification. [1994 c 129 § 7; 1993 c 24 § 1; 1990 c 3 § 409; 1985 c 346 § 6; 1973 c 20 § 1; 1972 ex.s. c 152 § 10.]

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Additional notes found at www.leg.wa.gov

43.43.750 Use of force to obtain identification information—Liability. In exercising their duties and authority under RCW 43.43.735 and 43.43.740, the sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may, consistent with constitutional and legal requirements, use such reasonable force as is necessary to compel an unwilling person to submit to being photographed, or fingerprinted, or to submit to any other identification procedure, except interrogation, which will result in obtaining physical evidence serving to identify such person. No one having the custody of any person subject to the identification procedures provided for in chapter 152, Laws of 1972 ex. sess., and no one acting in his or her aid or under his or her direction, and no one concerned in such publication as is provided for in RCW 43.43.740, shall incur any liability, civil or criminal, for anything lawfully done in the exercise of the provisions of chapter 152, Laws of 1972 ex. sess. [2009 c 549 § 5131; 1972 ex.s. c 152 § 11.]

43.43.751 Biological samples for missing persons investigations. Biological samples taken for a missing person's investigation under RCW 68.50.320 shall be forwarded to the appropriate laboratory as soon as possible. The crime laboratory of the Washington state patrol will provide guidance to agencies regarding where samples should be sent. If substantial delays in testing occur or federal testing is no longer available, the legislature should be requested to provide funding to implement mitochondrial technology in the state of Washington. [2007 c 10 § 6; 2006 c 102 § 7.]

Intent—2007 c 10: See note following RCW 43.103.110.

Finding—Intent—2006 c 102: See note following RCW 36.28A.100.

43.43.752 DNA identification system—Plan—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol in consultation with the University of Washington school of medicine shall develop a plan for and establish a DNA identification system. In implementing the plan, the state patrol shall purchase the appropriate equipment and supplies. The state patrol shall procure the most efficient equipment available.

(2) The DNA identification system as established shall be compatible with that utilized by the federal bureau of investigation.

(3) The state patrol and the University of Washington school of medicine shall report on the DNA identification system to the legislature no later than November 1, 1989. The report shall include a timeline for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1989 c 350 § 2.]

Additional notes found at www.leg.wa.gov

43.43.753 Findings—DNA identification system—DNA database—DNA data bank. The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that DNA databases are important tools in criminal investigations, in the exclusion of individuals who are the subject of investigations or prosecutions, and in detecting recidivist acts. It is the policy of this state to assist federal, state, and local criminal justice and law enforcement agencies in both the identification and detection of individuals in criminal investigations and the identification and location of missing and unidentified persons. Therefore, it is in the best interest of the state to establish a DNA database and DNA data bank containing DNA samples submitted by persons convicted of felony offenses and other crimes as specified in RCW 43.43.754. DNA samples necessary for the identification of missing persons and unidentified human remains shall also be included in the DNA database.

The legislature further finds that the DNA identification system used by the federal bureau of investigation and the Washington state patrol has no ability to predict genetic disease or predisposal to illness. Nonetheless, the legislature

intends that biological samples collected under RCW 43.43.754, and DNA identification data obtained from the samples, be used only for purposes related to criminal investigation, identification of human remains or missing persons, or improving the operation of the system authorized under RCW 43.43.752 through 43.43.758. [2008 c 97 § 1; 2002 c 289 § 1; 1989 c 350 § 1.]

Additional notes found at www.leg.wa.gov

43.43.7532 DNA identification system—DNA database account. The state DNA database account is created in the custody of the state treasurer. All receipts under RCW 43.43.7541 must be deposited into the account. Expenditures from the account may be used only for creation, operation, and maintenance of the DNA database under RCW 43.43.754. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2002 c 289 § 5.]

Additional notes found at www.leg.wa.gov

43.43.754 DNA identification system—Biological samples—Collection, use, testing—Scope and application of section. (1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony, or any of the following crimes (or equivalent juvenile offenses):

(i) Assault in the fourth degree where domestic violence as defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041, 9.94A.030);

(ii) Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835);

(iii) Communication with a minor for immoral purposes (RCW 9.68A.090);

(iv) Custodial sexual misconduct in the second degree (RCW 9A.44.170);

(v) Failure to register (chapter 9A.44 RCW);

(vi) Harassment (RCW 9A.46.020);

(vii) Patronizing a prostitute (RCW 9A.88.110);

(viii) Sexual misconduct with a minor in the second degree (RCW 9A.44.096);

(ix) Stalking (RCW 9A.46.110);

(x) Indecent exposure (RCW 9A.88.010);

(xi) Violation of a sexual assault protection order granted under chapter 7.105 RCW or former chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under RCW 9A.44.130.

(2)(a) A municipal jurisdiction may also submit any biological sample to the laboratory services bureau of the Washington state patrol for purposes of DNA identification analysis when:

(i) The sample was collected from a defendant upon conviction for a municipal offense where the underlying ordinance does not adopt the relevant state statute by reference but the offense is otherwise equivalent to an offense in subsection (1)(a) of this section;

(ii) The equivalent offense in subsection (1)(a) of this section was an offense for which collection of a biological

sample was required under this section at the time of the conviction; and

(iii) The sample was collected on or after June 12, 2008, and before January 1, 2020.

(b) When submitting a biological sample under this subsection, the municipal jurisdiction must include a signed affidavit from the municipal prosecuting authority of the jurisdiction in which the conviction occurred specifying the state crime to which the municipal offense is equivalent.

(3) Law enforcement may submit to the forensic laboratory services bureau of the Washington state patrol, for purposes of DNA identification analysis, any lawfully obtained biological sample within its control from a deceased offender who was previously convicted of an offense under subsection (1)(a) of this section, regardless of the date of conviction.

(4) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

(5) Biological samples shall be collected in the following manner:

(a) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, and are serving a term of confinement in a city or county jail facility, the city or county jail facility shall be responsible for obtaining the biological samples.

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility, department of children, youth, and families facility, or a city or county jail facility; and

(ii) Persons who are required to register under RCW 9A.44.130.

(c) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, the facility holding the person shall be responsible for obtaining the biological samples as part of the intake process. If the facility did not collect the biological sample during the intake process, then the facility shall collect the biological sample as soon as is practicable. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

(d) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who will not serve a term of confinement, the court shall: Order the person to report to the local police department or sheriff's office as provided under subsection (5)(b)(i) of this section within a reasonable period of time established by the court in order to provide a biological sample; or if the local police department or sheriff's office has a protocol for collecting the biological sample in the court-

room, order the person to immediately provide the biological sample to the local police department or sheriff's office before leaving the presence of the court. The court must further inform the person that refusal to provide a biological sample is a gross misdemeanor under this section.

(6) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

(7) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under this section, to the extent allowed by funding available for this purpose. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

(8) This section applies to:

(a) All adults and juveniles to whom this section applied prior to June 12, 2008;

(b) All adults and juveniles to whom this section did not apply prior to June 12, 2008, who:

(i) Are convicted on or after June 12, 2008, of an offense listed in subsection (1)(a) of this section on the date of conviction; or

(ii) Were convicted prior to June 12, 2008, of an offense listed in subsection (1)(a) of this section and are still incarcerated on or after June 12, 2008;

(c) All adults and juveniles who are required to register under RCW 9A.44.130 on or after June 12, 2008, whether convicted before, on, or after June 12, 2008; and

(d) All samples submitted under subsections (2) and (3) of this section.

(9) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

(10) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks. No cause of action may be brought against the state based upon the analysis of a biological sample authorized to be taken pursuant to a municipal ordinance if the conviction or adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including, but not limited to, posttrial or postfact-finding motions, appeals, or collateral attacks.

(11) A person commits the crime of refusal to provide DNA if the person willfully refuses to comply with a legal request for a DNA sample as required under this section. The refusal to provide DNA is a gross misdemeanor. [2021 c 215 § 149; 2020 c 26 § 7; 2019 c 443 § 3; 2017 c 272 § 4; 2015 c

261 § 10; 2008 c 97 § 2; 2002 c 289 § 2; 1999 c 329 § 2; 1994 c 271 § 402; 1990 c 230 § 3; 1989 c 350 § 4.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Intent—2020 c 26: See note following RCW 63.21.090.

Short title—2019 c 443: "This act may be known and cited as Jennifer and Michella's law." [2019 c 443 § 1.]

Findings—2019 c 443: "The legislature finds that the state of Washington has for decades routinely required collection of DNA biological samples from certain convicted offenders and persons required to register as sex and kidnapping offenders. The resulting DNA data has proven to be an invaluable component of forensic evidence analysis. Not only have DNA matches focused law enforcement efforts and resources on productive leads, assisted in the expeditious conviction of guilty persons, and provided identification of recidivist and cold case offenders, DNA analysis has also played a crucial role in absolving wrongly suspected and convicted persons and in providing resolution to those who have tragically suffered unimaginable harm.

In an effort to solve cold cases and unsolved crimes, to provide closure to victims and their family members, and to support efforts to exonerate the wrongly accused or convicted, the legislature finds that procedural improvements and measured expansions to the collection and analysis of lawfully obtained DNA biological samples are both appropriate and necessary." [2019 c 443 § 2.]

Findings—1999 c 329: "The legislature finds it necessary to expand the current pool of convicted offenders who must have a blood sample drawn for purposes of DNA identification analysis. The legislature further finds that there is a high rate of recidivism among certain types of violent and sex offenders and that drawing blood is minimally intrusive. Creating an expanded DNA data bank bears a rational relationship to the public's interest in enabling law enforcement to better identify convicted violent and sex offenders who are involved in unsolved crimes, who escape to reoffend, and who reoffend after release." [1999 c 329 § 1.]

Finding—1994 c 271: "The legislature finds that DNA identification analysis is an accurate and useful law enforcement tool for identifying and prosecuting sexual and violent offenders. The legislature further finds no compelling reason to exclude juvenile sexual and juvenile violent offenders from DNA identification analysis." [1994 c 271 § 401.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

Additional notes found at www.leg.wa.gov

43.43.7541 DNA identification system—Collection of biological samples—Fee. Every sentence imposed for a crime specified in RCW 43.43.754 must include a fee of one hundred dollars unless the state has previously collected the offender's DNA as a result of a prior conviction. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030 and other applicable law. For a sentence imposed under chapter 9.94A RCW, the fee is payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. For all other sentences, the fee is payable by the offender in the same manner as other assessments imposed. The clerk of the court shall transmit eighty percent of the fee collected to the state treasurer for deposit in the state DNA database account created under RCW 43.43.7532, and shall transmit twenty percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754. This fee shall not be imposed on juvenile offenders if the state has previously collected the juvenile offender's DNA as a result of a prior conviction. [2018 c 269 § 18; 2015 c 265 § 31; 2011 c 125 § 1; 2008 c 97 § 3; 2002 c 289 § 4.]

Construction—2018 c 269: See note following RCW 10.82.090.

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Additional notes found at www.leg.wa.gov

43.43.756 DNA identification system—Analysis, assistance, and testimony services. The Washington state patrol forensic laboratory services bureau may:

- (1) Provide DNA analysis services to law enforcement agencies throughout the state;
- (2) Provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court; and
- (3) Provide expert testimony in court on DNA evidentiary issues. [2008 c 97 § 4; 1989 c 350 § 5.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.758 DNA identification system—Local law enforcement systems—Limitations. (1) Except as provided in subsection (2) of this section, no local law enforcement agency may establish or operate a DNA identification system before July 1, 1990, and unless:

- (a) The equipment of the local system is compatible with that of the state system under RCW 43.43.752;
- (b) The local system is equipped to receive and answer inquiries from the Washington state patrol DNA identification system and transmit data to the Washington state patrol DNA identification system; and
- (c) The procedure and rules for the collection, analysis, storage, expungement, and use of DNA identification data do not conflict with procedures and rules applicable to the state patrol DNA identification system.

(2) Nothing in this section shall prohibit a local law enforcement agency from performing DNA identification analysis in individual cases to assist law enforcement officials and prosecutors in the preparation and use of DNA evidence for presentation in court. [1990 c 230 § 2; 1989 c 350 § 6.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.759 DNA identification system—Rule-making requirements. The Washington state patrol shall consult with the forensic investigations council and adopt rules to implement RCW 43.43.752 through 43.43.758. The rules shall prohibit the use of DNA identification data for any research or other purpose that is not related to a criminal investigation, to the identification of human remains or missing persons, or to improving the operation of the system authorized by RCW 43.43.752 through 43.43.758. The rules must also identify appropriate sources and collection methods for biological samples needed for purposes of DNA identification analysis. [2002 c 289 § 3; 1990 c 230 § 1.]

Additional notes found at www.leg.wa.gov

43.43.760 Personal identification—Requests—Purpose—Applicants—Fee. (1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such agency may comply with his or her request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

The section shall accept and file such fingerprints submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his or her identification data.

(2) Whenever a person claiming to be a victim of identity theft appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such agency may comply with this request and make the required copies of the impressions on forms marked "Personal Identification." The required copies shall be forwarded to the section and marked "for personal identification only."

The section shall accept and file such fingerprints submitted by such resident, for the purpose of securing a more certain and easy identification in cases of identity theft. The section shall provide a statement showing that the victim's impression of fingerprints has been accepted and filed with the section.

The statement provided to the victim shall state clearly in twelve-point print:

"The person holding this statement has claimed to be a victim of identity theft. Pursuant to chapter 9.35 RCW, a business is required by law to provide this victim with copies of all relevant application and transaction information related to the transaction being alleged as a potential or actual identity theft. A business must provide this information once the victim makes a request in writing, shows this statement, any government issued photo identification card, and a copy of a police report."

Upon the request of such person, the section shall return his or her identification data.

(3) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, or the department, or is an applicant for the services of an international matchmaking organization, the applicant may request any law enforcement agency to make an impression of his or her fingerprints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section.

The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, licensing authority, or international matchmaking organization indicated on the form of application, a transcript of the record of previous crimes committed by the person described on the data submitted, or a transcript of the *dependency record information regarding the person described on the data submitted, or if there is no record of his or her commission of any crimes, or if there is no *dependency record information, a statement to that effect.

(4) The Washington state patrol shall charge fees for processing of noncriminal justice system requests for criminal history record information pursuant to this section which will

cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such requests.

Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for non-criminal purposes. [2002 c 115 § 5; 2001 c 217 § 3; 1985 c 201 § 15; 1983 c 184 § 1; 1972 ex.s. c 152 § 13.]

***Reviser's note:** The definition for "dependency record information" was removed by 2006 c 294 § 2.

Dissemination of information—Limitations—Disclaimer of liability: RCW 43.43.815.

Additional notes found at www.leg.wa.gov

43.43.762 Criminal street gang database—Information exempt from public disclosure. The Washington association of sheriffs and police chiefs shall work with the Washington state patrol to coordinate, designate, and recommend the use of a statewide database accessible by law enforcement agencies that utilizes existing resources, networks, or structures for assessing and addressing the problems associated with criminal street gangs.

(1) The gang database shall comply with federal regulations for state law enforcement databases shared with other law enforcement agencies, including auditing and access to data.

(2) The Washington state patrol, in consultation with the Washington state association of sheriffs and police chiefs, shall adopt uniform state criteria for entering gangs, gang members, and gang associates into the database. Data on individuals may be entered only based on reasonable suspicion of criminal activity or actual criminal activity and must be supported by documentation, where documentation is available.

(3) Information in the database shall be available to all local, state, and federal general authority law enforcement agencies, the Washington department of corrections, and the juvenile rehabilitation administration of the Washington department of social and health services solely for gang enforcement and for tracking gangs, gang members, and gang incidents. Information in the database shall not be available for public use.

(4) The database shall provide an internet-based multi-agency, multilocation, information-sharing application that operates in a network fashion.

(5) The database shall be used solely as a law enforcement intelligence tool and shall not be used as evidence in any criminal, civil, or administrative proceeding. Law enforcement may use the information within the database to obtain information external to the database to formulate the probable cause necessary to make a stop or arrest. The mere existence of information relating to an individual within the database does not by itself justify a stop or arrest.

(6) Access to the database shall be determined by the chief executive officer of each participating agency. Information about specific individuals in the database shall be automatically expunged if: (a) No new or updated information has been entered into the database within the previous five years; (b) there are no pending criminal charges against such person in any court in this state or another state or in any federal court; (c) the person has not been convicted of a new crime in this state, another state, or federal court within the

last five years; and (d) it has been five years since the person completed his or her term of total confinement.

(7) Each law enforcement and criminal justice agency using the database is required to:

(a) Identify a system administrator that is responsible for annually auditing the use of the system within his or her respective agency to ensure agency compliance with policies established for the use of the database;

(b) Ensure that all users of the database receive training on the use of the database before granting the users access to the database;

(c) Ensure that any information entered into the database relates to a criminal street gang associate or gang member who is twelve years old or older;

(d) Annually produce a gang threat assessment report including available data sources such as uniform crime reports, record management systems, and entries into the statewide gang database. Local public schools shall also be encouraged to provide data to the local gang threat assessment report.

(8) The database and all contents in the database are confidential and exempt from public disclosure under chapter 42.56 RCW.

(9) Any public employee or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving a person who has been included in the database, unless it is shown that an employee acted with gross negligence or bad faith. [2008 c 276 § 201.]

Additional notes found at www.leg.wa.gov

43.43.765 Reports of transfer, release or changes as to committed or imprisoned persons—Records. The principal officers of the jails, correctional institutions, state mental institutions and all places of detention to which a person is committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW for treatment or under a sentence of imprisonment for any crime as provided for in RCW 43.43.735 shall within seventy-two hours, report to the section, any interinstitutional transfer, release or change of release status of any person held in custody pursuant to the rules promulgated by the chief.

The principal officers of all state mental institutions to which a person has been committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW shall keep a record of the photographs, description, fingerprints, and other identification data as may be obtainable from the appropriate criminal justice agency. [1990 c 3 § 131; 1983 c 3 § 108; 1972 ex.s. c 152 § 14.]

43.43.770 Unidentified deceased persons. It shall be the duty of the sheriff or director of public safety of every county, or the chief of police of every city or town, or the chief officer of other law enforcement agencies operating within this state, coroners or medical examiners, to record whenever possible the fingerprints and such other identification data as may be useful to establish identity, of all unidentified dead bodies found within their respective jurisdictions, and to furnish to the section all data so obtained. The section

shall search its files and otherwise make a reasonable effort to determine the identity of the deceased and notify the contributing agency of the finding.

In all cases where there is found to exist a criminal record for the deceased, the section shall notify the federal bureau of investigation and each criminal justice agency, within or outside the state in whose jurisdiction the decedent has been arrested, of the date and place of death of decedent. [1972 ex.s. c 152 § 15.]

43.43.775 Interagency contracts. The legislative authority of any county, city or town may authorize its sheriff, director of public safety or chief of police to enter into any contract with another public agency which is necessary to carry out the provisions of chapter 152, laws of 1972 ex. sess. [1972 ex.s. c 152 § 16.]

43.43.780 Transfer of records, data, equipment to section. All fingerprint cards, photographs, file cabinets, equipment, and other records collected and filed by the bureau of criminal identification, and now in the department of social and health services shall be transferred to the Washington state patrol for use by the *section on identification created by chapter 152, Laws of 1972 ex. sess. [1972 ex.s. c 152 § 17.]

*Reviser's note: The "section on identification" was renamed the "identification and criminal history section" by 2006 c 294 § 1.

43.43.785 Criminal justice services—Consolidation—Establishment of program. The legislature finds that there is a need for the Washington state patrol to establish a program which will consolidate existing programs of criminal justice services within its jurisdiction so that such services may be more effectively utilized by the criminal justice agencies of this state. The chief shall establish such a program which shall include but not be limited to the identification section, all auxiliary systems including the Washington crime information center and the teletypewriter communications network, the drug control assistance unit, and any other services the chief deems necessary which are not directly related to traffic control. [1999 c 151 § 1102; 1972 ex.s. c 152 § 18.]

Additional notes found at www.leg.wa.gov

43.43.800 Criminal justice services programs—Duties of executive committee. The executive committee created in RCW 10.98.160 shall review the provisions of RCW 43.43.700 through 43.43.785 and the administration thereof and shall consult with and advise the chief of the state patrol on matters pertaining to the policies of criminal justice services program. [1999 c 151 § 1103; 1972 ex.s. c 152 § 21.]

Additional notes found at www.leg.wa.gov

43.43.810 Obtaining information by false pretenses—Unauthorized use of information—Falsifying records—Penalty. Any person who willfully requests, obtains or seeks to obtain criminal history record information under false pretenses, or who willfully communicates or seeks to communicate criminal history record information to any agency or person except in accordance with chapter 152,

(2022 Ed.)

Laws of 1972 ex. sess., or any member, officer, employee or agent of the section, the council or any participating agency, who willfully falsifies criminal history record information, or any records relating thereto, shall for each such offense be guilty of a misdemeanor. [2006 c 294 § 8; 1977 ex.s. c 314 § 17; 1972 ex.s. c 152 § 23.]

43.43.815 Conviction record furnished to employer—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules. (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written or electronic request of any employer for the purpose of:

- (a) Securing a bond required for any employment;
- (b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or
- (c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

(2) When an employer has received a conviction record under subsection (1) of this section, the employer shall notify the subject of the record of such receipt within thirty days after receipt of the record, or upon completion of an investigation under subsection (1)(c) of this section. The employer shall make the record available for examination by its subject and shall notify the subject of such availability.

(3) The Washington state patrol shall charge fees for disseminating records pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the Washington state patrol of disseminating such records.

(4) Information disseminated pursuant to this section or RCW 43.43.760 shall be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated and shall be used only as necessary for those purposes enumerated in subsection (1) of this section.

(5) Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this section, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this section, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action is entitled to recover from the defendant the amount of the actual damages, if any, sustained by him or her if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of chapter 10.97 RCW.

(6) Neither the section, its employees, nor any other agency or employee of the state is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information pursuant to this section or RCW 43.43.760.

(7) The Washington state patrol may adopt rules and forms to implement this section and to provide for security and privacy of information disseminated pursuant hereto, giving first priority to the criminal justice requirements of chapter 43.43 RCW. Such rules may include requirements for users, audits of users, and other procedures to prevent use of criminal history record information inconsistent with this section.

(8) Nothing in this section shall authorize an employer to make an inquiry not otherwise authorized by law, or be construed to affect the policy of the state declared in RCW 9.96A.010, encouraging the employment of ex-offenders. [2009 c 549 § 5132; 1995 c 169 § 1; 1982 c 202 § 1.]

43.43.820 Stale records. Stale records shall be destroyed in a manner to be prescribed by the chief. [1972 ex.s. c 152 § 25.]

43.43.822 County sheriff to forward registration information—Felony firearm offense conviction database—Exempt from public disclosure. (1) The county sheriff shall forward registration information, photographs, and fingerprints obtained pursuant to RCW 9.41.333 to the Washington state patrol within five working days.

(2) Upon implementation of chapter 183, Laws of 2013, the Washington state patrol shall maintain a felony firearm offense conviction database of felony firearm offenders required to register under RCW 9.41.333 and shall adopt rules as are necessary to carry out the purposes of chapter 183, Laws of 2013.

(3) Upon expiration of the person's duty to register, as described in RCW 9.41.333(8), the Washington state patrol shall automatically remove the person's name and information from the database.

(4) The felony firearm offense conviction database of felony firearm offenders shall be used only for law enforcement purposes and is not subject to public disclosure under chapter 42.56 RCW. [2013 c 183 § 6.]

43.43.823 Incorporation of denied firearm transaction records—Removal of record, when required—Notice—Rules. (Contingent expiration date.) (1) Upon receipt of the information from the Washington association of sheriffs and police chiefs pursuant to RCW 36.28A.400, the Washington state patrol must incorporate the information into its electronic database accessible to law enforcement agencies and officers, including federally recognized Indian tribes, that have a connection to the Washington state patrol electronic database.

(2) Upon receipt of documentation that a person has appealed a background check denial, the Washington state patrol shall immediately remove the record of the person initially reported pursuant to RCW 36.28A.400 from its electronic database accessible to law enforcement agencies and officers. The Washington state patrol must keep a separate record of the person's information for a period of one year or

until such time as the appeal has been resolved. Every twelve months, the Washington state patrol shall notify the person that the person must provide documentation that his or her appeal is still pending or the record of the person's background check denial will be put back in its electronic database accessible to law enforcement agencies and officers. At any time, upon receipt of documentation that a person's appeal has been granted, the Washington state patrol shall remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers.

(3) Upon receipt of satisfactory proof that a person who was reported to the Washington state patrol pursuant to RCW 36.28A.400 is no longer ineligible to possess a firearm under state or federal law, the Washington state patrol must remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers.

(4) Upon receipt of notification from the Washington association of sheriffs and police chiefs that a person originally denied the purchase or transfer of a firearm as the result of a background check or completed and submitted firearm purchase or transfer application that indicates the applicant is ineligible to possess a firearm under state or federal law has subsequently been approved for the purchase or transfer, the Washington state patrol must remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers within five business days.

(5) The Washington state patrol shall generate and distribute a notice form to all firearm dealers, to be provided by the dealers to applicants denied the purchase or transfer of a firearm as a result of a background check that indicates the applicant is ineligible to possess a firearm. The notice form must contain the following statements:

State law requires that I transmit the following information to the Washington association of sheriffs and police chiefs as a result of your firearm purchase or transfer denial within five days of the denial:

- (a) Identifying information of the applicant;
- (b) The date of the application and denial of the application;
- (c) Other information as prescribed by the Washing-

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association of sheriffs and police chiefs.

If you believe this denial is in error, and you do not exercise your right to appeal, you may be subject to criminal investigation by the Washington state patrol and/or a local law enforcement agency.

The notice form shall also contain information directing the applicant to a website describing the process of appealing a national instant criminal background check system denial through the federal bureau of investigation and refer the applicant to local law enforcement for information on a denial based on a state background check. The notice form shall also contain a phone number for a contact at the Washington state patrol to direct the person to resources regarding an individual's right to appeal a background check denial.

(6) The Washington state patrol may adopt rules as are necessary to carry out the purposes of this section. [2018 c 22 § 11; 2017 c 261 § 3.]

Explanatory statement—2018 c 22: See note following RCW 1.20.051.

43.43.823 Denied firearm transaction records—Removal of record, when required—Notice—Rules. (Contingent effective date.) (1) The Washington state patrol shall report each instance where an application for the purchase or transfer of a firearm is denied as the result of a background check that indicates the applicant is ineligible to possess a firearm to the local law enforcement agency in the jurisdiction where the attempted purchase or transfer took place. The reported information must include the identifying information of the applicant, the date of the application and denial of the application, the basis for the denial of the application, and other information deemed appropriate by the Washington state patrol.

(2) The Washington state patrol must incorporate the information concerning any person whose application for the purchase or transfer of a firearm is denied as the result of a background check into its electronic database accessible to law enforcement agencies and officers, including federally recognized Indian tribes, that have a connection to the Washington state patrol electronic database.

(3) Upon appeal of a background check denial, the Washington state patrol shall immediately remove the record of the person from its electronic database accessible to law enforcement agencies and officers and keep a separate record of the person's information until such time as the appeal has been resolved. If the appeal is denied, the Washington state patrol shall put the person's background check denial information back in its electronic database accessible to law enforcement agencies and officers.

(4) Upon receipt of satisfactory proof that a person is no longer ineligible to possess a firearm under state or federal law, the Washington state patrol must remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers.

(5) In any case where the purchase or transfer of a firearm is initially denied as the result of a background check that indicates the applicant is ineligible to possess a firearm, but the purchase or transfer is subsequently approved, the Washington state patrol must remove any record of the person's denied firearms purchase or transfer application from its electronic database accessible to law enforcement agencies and officers within five business days and report the subsequent approval to the local law enforcement agency that received notification of the original denial.

(6) The Washington state patrol shall generate and distribute a notice form to all firearm dealers, to be provided by the dealers to applicants denied the purchase or transfer of a firearm as a result of a background check that indicates the applicant is ineligible to possess a firearm. The notice form must contain the following statements:

State law requires that the Washington state patrol transmit the following information to the local law enforcement (2022 Ed.)

agency as a result of your firearm purchase or transfer denial within five days of the denial:

- (a) Identifying information of the applicant;
- (b) The date of the application and denial of the application;
- (c) The basis for the denial; and
- (d) Other information as determined by the Washington state patrol.

If you believe this denial is in error, and you do not exercise your right to appeal, you may be subject to criminal investigation by the Washington state patrol and/or a local law enforcement agency.

The notice form shall also contain information directing the applicant to a website describing the process of appealing a background check system denial and refer the applicant to the Washington state patrol for information on a denial based on a state background check. The notice form shall also contain a phone number for a contact at the Washington state patrol to direct the person to resources regarding an individual's right to appeal a background check denial.

(7) The Washington state patrol shall provide to the Washington association of sheriffs and police chiefs any information necessary for the administration of the grant program in RCW 36.28A.420, providing notice to a protected person pursuant to RCW 36.28A.410, or preparation of the report required under RCW 36.28A.405.

(8) The Washington state patrol may adopt rules as are necessary to carry out the purposes of this section. [2020 c 28 § 6; 2018 c 22 § 11; 2017 c 261 § 3.]

Contingent effective date—2020 c 28 §§ 5-9: See note following RCW 9.41.114.

Explanatory statement—2018 c 22: See note following RCW 1.20.051.

43.43.825 Guilty plea or conviction for certain felony crimes—Notification of state patrol—Transmission of information to the department of health. (1) Upon a guilty plea or conviction of a person for any felony crime involving homicide under chapter 9A.32 RCW, assault under chapter 9A.36 RCW, kidnapping under chapter 9A.40 RCW, sex offenses under chapter 9A.44 RCW, financial crimes under chapter 9A.60 RCW, violations of the uniform controlled substances act under chapter 69.50 RCW, any drug offense defined under RCW 9.94A.030, or a crime of any type classified as a felony under Washington state law, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall transmit that information to the department of health. It is the duty of the department of health to identify whether the person holds a credential issued by a disciplining authority listed under RCW 18.130.040, and provide this information to the disciplining authority that issued the credential to the person who pled guilty or was convicted of a crime listed in subsection (1) of this section. [2008 c 134 § 28; 2006 c 99 § 8.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

43.43.830 Background checks—Access to children or vulnerable persons—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

(2) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under *chapter 26.10 RCW.

(3) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(4) "Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

(5) "Client" or "resident" means a child, person with developmental disabilities, or vulnerable adult applying for housing assistance from a business or organization.

(6) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and **10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment,

or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(7) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; fourth degree assault (if a violation of RCW 9A.36.041(3)); first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; hate crime; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; commercial sexual abuse of a minor; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(8) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(9) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Health care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(12) "Peer counselor" means a nonprofessional person who has equal standing with another person, providing advice on a topic about which the nonprofessional person is more experienced or knowledgeable, and who is a counselor for a peer counseling program that contracts with or is otherwise approved by the department, another state or local agency, or the court.

(13) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

With regard to peer counselors, "unsupervised" does not include incidental contact with children under age sixteen at the location at which the peer counseling is taking place. "Incidental contact" means minor or casual contact with a

child in an area accessible to and within visual or auditory range of others. It could include passing a child while walking down a hallway but would not include being alone with a child for any period of time in a closed room or office.

(14) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves. [2019 c 271 § 10; 2017 c 272 § 5; 2012 c 44 § 1. Prior: 2011 c 253 § 5; 2007 c 387 § 9; 2005 c 421 § 1; 2003 c 105 § 5; 2002 c 229 § 3; 1999 c 45 § 5; 1998 c 10 § 1; 1996 c 178 § 12; 1995 c 250 § 1; 1994 c 108 § 1; 1992 c 145 § 16; prior: 1990 c 146 § 8; 1990 c 3 § 1101; prior: 1989 c 334 § 1; 1989 c 90 § 1; 1987 c 486 § 1.]

Reviser's note: *(1) Chapter 26.10 RCW, with the exception of RCW 26.10.115, was repealed by 2020 c 312 § 905. RCW 26.10.115 was repealed by 2021 c 215 § 170, effective July 1, 2022.

***(2) RCW 10.97.050 was amended by 2012 c 125 § 2, eliminating the limitation on what may be included in a conviction record.

At-risk children volunteer program: RCW 43.150.080.

State hospitals: RCW 72.23.035.

Additional notes found at www.leg.wa.gov

43.43.832 Background checks—Disclosure of information—Sharing of criminal background information by health care facilities. (1) The Washington state patrol identification and criminal history section shall disclose conviction records as follows:

(a) An applicant's conviction record, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian;

(b) The conviction record of an applicant for certification, upon the request of the Washington professional educator standards board;

(c) Any conviction record to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse, upon the request of a law enforcement agency, the office of the attorney general, prosecuting authority, or the department of social and health services; and

(d) A prospective client's or resident's conviction record, upon the request of a business or organization that qualifies for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter or transitional housing for children, persons with developmental disabilities, or vulnerable adults.

(2) The secretary of the department of social and health services and the secretary of children, youth, and families must establish rules and set standards to require specific action when considering the information received pursuant to subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities provided that:

For persons residing in a home that will be utilized to provide foster care for dependent youth, a criminal background check will be required for all persons aged sixteen and older and the department of social and health services may require a criminal background check for persons who are younger than sixteen in situations where it may be warranted to ensure the safety of youth in foster care;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment, including peer counseling, of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers as defined in RCW 74.39A.240 or providers paid by home care agencies provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(3) The secretary of the department of children, youth, and families shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(4) The secretary of the department of children, youth, and families shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns,

volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children; and

(e) When responding to a request from an individual for a certificate of parental improvement under chapter 74.13 RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The office of financial management shall adopt rules to accomplish the purposes of this subsection as it applies to state employees. The department of social and health services shall adopt rules to accomplish the purpose of this subsection as it applies to long-term care workers subject to RCW 74.39A.056.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defa-

mation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(7) The department of social and health services may not consider any final founded finding of physical abuse or negligent treatment or maltreatment of a child made pursuant to chapter 26.44 RCW that is accompanied by a certificate of parental improvement or dependency as a result of a finding of abuse or neglect pursuant to chapter 13.34 RCW that is accompanied by a certificate of parental improvement when evaluating an applicant or employee's character, competency, and suitability pursuant to any background check authorized or required by this chapter, RCW 43.20A.710 or 74.39A.056, or any of the rules adopted thereunder. [2021 c 203 § 1; 2020 c 270 § 7; 2019 c 146 § 6. Prior: 2017 3rd sp.s. c 20 § 5; 2017 3rd sp.s. c 6 § 224; prior: 2012 c 44 § 2; 2012 c 10 § 41; 2011 c 253 § 6; 2007 c 387 § 10; 2006 c 263 § 826; 2005 c 421 § 2; 2000 c 87 § 1; 1997 c 392 § 524; 1995 c 250 § 2; 1993 c 281 § 51; 1990 c 3 § 1102; prior: 1989 c 334 § 2; 1989 c 90 § 2; 1987 c 486 § 2.]

Effective date—2021 c 203: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 10, 2021]." [2021 c 203 § 18.]

Retroactive application—2021 c 203: "This act is remedial and curative in nature and all of its sections apply retroactively to February 29, 2020, to include the period of the state of emergency created by the COVID-19 outbreak. In any instance where this act grants rule-making authority to the department of social and health services or the department of health, the agencies may adopt the rules as emergency rules and may make the rules retroactively effective." [2021 c 203 § 19.]

Effective date—2020 c 270: See note following RCW 74.13.720.

Construction—Competitive procurement process and contract provisions—Conflict with federal requirements and Indian Child Welfare Act of 1978—2017 3rd sp.s. c 20: See notes following RCW 74.13.270.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Additional notes found at www.leg.wa.gov

43.43.8321 Background checks—Dissemination of conviction record information. When the Washington state patrol disseminates conviction record information in response to a request under RCW 43.43.832, it shall clearly state that: (1) The conviction record data does not include information on civil adjudications, administrative findings, or disciplinary board final decisions and that all such information must be obtained from the courts and licensing agencies; (2) the conviction record includes any criminal history record information which pertains to an incident that occurred within the last twelve months for which a person is

currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction; and (3) an arrest is not a conviction or a finding of guilt. [2012 c 125 § 5; 2005 c 421 § 10.]

43.43.833 Background checks—State immunity. If information is released under this chapter by the state of Washington, the state and its employees: (1) Make no representation that the subject of the inquiry has no criminal record or adverse civil or administrative decisions; (2) make no determination that the subject of the inquiry is suitable for involvement with a business or organization; and (3) are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information. [1997 c 392 § 529.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

43.43.834 Background checks by business, organization, or insurance company—Limitations—Civil liability. (1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who may be offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant:

- (a) Has been convicted of a crime;
- (b) Has had findings made against him or her in any civil adjudicative proceeding as defined in RCW 43.43.830; or
- (c) Has both a conviction under (a) of this subsection and findings made against him or her under (b) of this subsection.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited, except as provided in RCW 28A.320.155. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on an applicant unless the failure to do so constitutes gross negligence. [2005 c 421 § 3; 1999 c 21 § 2; 1998 c 10 § 3; 1990 c 3 § 1103. Prior: 1989 c 334 § 3; 1989 c 90 § 3; 1987 c 486 § 3.]

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43.43.836 Disclosure to individual of own record—Fee. An individual may contact the state patrol to ascertain whether an individual has a conviction record. The state patrol shall disclose such information, subject to the fee established under RCW 43.43.838. [2005 c 421 § 4; 1987 c 486 § 4.]

43.43.837 Fingerprint-based background checks—Requirements for applicants and service providers—Shared background checks—Fees—Rules to establish financial responsibility. (1) Except as provided in subsection (2) of this section, in order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary of the department of social and health services and the secretary of the department of children, youth, and families may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

(a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;

(b) Is an individual sixteen years of age or older who: (i) Is not under the placement and care authority of the department of children, youth, and families; and (ii) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families to provide services to children under RCW 74.15.030;

(c) Is an individual who is authorized by the department of social and health services to provide services to people with developmental disabilities under RCW 74.15.030; or

(d) Is an applicant or service provider providing in-home services funded by:

- (i) Medicaid personal care under RCW 74.09.520;
- (ii) Community options program entry system waiver services under RCW 74.39A.030;
- (iii) Chore services under RCW 74.39A.110; or
- (iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services.

(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to background checks under RCW 74.39A.056.

(3) To satisfy the shared background check requirements provided for in RCW 43.216.270 and 43.20A.710, the department of children, youth, and families and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person.

(4) The secretary of the department of children, youth, and families shall require a fingerprint-based background check through the Washington state patrol identification and

criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law. Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department of children, youth, and families for applicant and service providers providing foster care as required in RCW 74.15.030.

(5) Any secure facility operated by the department of social and health services or the department of children, youth, and families under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(6) Service providers and service provider applicants, except for those long-term care workers exempted in subsection (2) of this section, who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(7) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the applicable department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services or the department of children, youth, and families;

(f) Services in, or to residents of, a secure facility under RCW 71.09.115; and

(g) For fiscal year 2023, applicants for child care and early learning services to children under RCW 43.216.270.

(8) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(9) Department of children, youth, and families service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(10) The department of social and health services and the department of children, youth, and families shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or

federal bureau of investigation fingerprint-based background check.

(11) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department of social and health services, department of children, youth, and families, or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:

(i) Applying for a license or certification from the department of social and health services or the department of children, youth, and families;

(ii) Seeking a contract with the department of social and health services, the department of children, youth, and families, or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer;

(iv) An individual that a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered; or

(v) A department of social and health services or department of children, youth, and families applicant who will or may work in a department-covered position.

(b) "Authorized" means the department of social and health services or the department of children, youth, and families grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department of social and health services or department of children, youth, and families program; or

(iv) Work or serve in a department of social and health services or department of children, youth, and families-covered position.

(c) "Secretary" means the secretary of the department of social and health services.

(d) "Secure facility" has the meaning provided in RCW 71.09.020.

(e) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department of social and health services or the department of children, youth, and families to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client may choose to hire or engage to provide services to himself or herself or another vulnerable

adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered. [2022 c 297 § 954; 2021 c 203 § 2; 2019 c 470 § 12; 2017 3rd sp.s. c 6 § 225; 2012 c 164 § 506; 2011 1st sp.s. c 31 § 17; 2011 c 253 § 2; 2009 c 580 § 6; 2007 c 387 § 1.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Effective date—Retroactive application—2021 c 203: See notes following RCW 43.43.832.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

43.43.838 Record checks—Transcript of conviction record—Fees—Immunity—Rules. (1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

- (a) The subject of the inquiry;
- (b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;
- (c) The department of social and health services;
- (d) Any law enforcement agency, prosecuting authority, or the office of the attorney general;
- (e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults; or
- (f) The department of children, youth, and families for the purpose of meeting responsibilities in chapters 43.216 and 74.15 RCW. However, access to conviction records pursuant to this subsection (1)(f) does not limit or restrict the ability of [the] department of children, youth, and families to obtain additional information regarding conviction records and pending charges as provided in RCW 74.15.030(2)(b).

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records. No fee shall be charged to a nonprofit organization for the records check. Record checks requested by school districts and educational service districts using only name and date of birth will be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this sec-

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tion, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW. [2017 3rd sp.s. c 6 § 226; 2009 c 170 § 1; 2007 c 17 § 5; 2005 c 421 § 5; 1995 c 29 § 1; 1992 c 159 § 7; 1990 c 3 § 1104. Prior: 1989 c 334 § 4; 1989 c 90 § 4; 1987 c 486 § 5.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Findings—1992 c 159: See note following RCW 28A.400.303.

43.43.839 Fingerprint identification account. The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested for noncriminal justice purposes and electronic background requests shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. The account shall be subject to appropriation. During the 2017-2019 and 2019-2021 fiscal biennia, funds in the account may be used for expenditures related to the upgrade of the state patrol's criminal history system. During the 2017-2019 and 2019-2021 fiscal biennia, the account may be used for building the sexual assault kit tracking system. It is the intent of the legislature that this policy will be continued in subsequent fiscal biennia. [2019 c 415 § 964; 2017 3rd sp.s. c 1 § 969; 2016 sp.s. c 36 § 928; 2015 3rd sp.s. c 4 § 955; 2014 c 221 § 916; 2010 1st sp.s. c 37 § 922; 1995 c 169 § 2; 1992 c 159 § 8.]

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective date—2014 c 221: See note following RCW 28A.710.260.

Findings—1992 c 159: See note following RCW 28A.400.303.

Additional notes found at www.leg.wa.gov

43.43.840 Notification to licensing agency of employment termination for certain crimes against persons. When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the Washington professional educator standards board, the business or organization

shall notify the licensing agency of such termination of employment. [2006 c 263 § 827; 2005 c 421 § 6; 1997 c 386 § 40. Prior: 1989 c 334 § 5; 1989 c 90 § 5; 1987 c 486 § 6.]

Findings—Purpose—part headings not law—2006 c 263: See notes following RCW 28A.150.230.

43.43.842 Vulnerable adults—Additional licensing requirements for agencies, facilities, and individuals providing services. (1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active vulnerable adult protection order under chapter 7.105 RCW, nor have been: (i) Convicted of a crime against children or other persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult as defined in RCW 43.43.830.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(f) The department of social and health services reviewed the employee's otherwise disqualifying criminal history through the department of social and health services'

background assessment review team process conducted in 2002, and determined that such employee could remain in a position covered by this section; or

(g) The otherwise disqualifying conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure.

The offenses set forth in (a) through (g) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an offense set forth in subsection (2) of this section for a position as a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW if:

(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;

(b) The offense was committed as a result of the applicant's substance use or untreated mental health symptoms; and

(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from a mental health disorder.

(4) The rules adopted pursuant to subsection (2) of this section may not allow a licensee to automatically deny an applicant with a conviction for an offense set forth in subsection (2) of this section for a position as an agency affiliated counselor registered under chapter 18.19 RCW practicing as a peer counselor in an agency or facility if:

(a) At least one year has passed between the applicant's most recent conviction for an offense set forth in subsection (2) of this section and the date of application for employment;

(b) The offense was committed as a result of the person's substance use or untreated mental health symptoms; and

(c) The applicant is at least one year in recovery from a substance use disorder, whether through abstinence or stability on medication-assisted therapy, or in recovery from mental health challenges.

(5) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose. [2021 c 215 § 150. Prior: 2019 c 446 § 44; 2019 c 444 § 22; 2014 c 88 § 1; 2007 c 387 § 4; 1998 c 10 § 4; 1997 c 392 § 518; 1992 c 104 § 1; 1989 c 334 § 11.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

43.43.845 Notification of conviction or guilty plea of certain felony crimes—Transmittal of information to superintendent of public instruction. (1) Upon a guilty plea or conviction of a person of any felony crime specified under RCW 28A.400.322, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives the notice required under subsection (1) of this section, the state patrol shall transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction, on at least a quarterly basis, to identify whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district, and provide this information to the Washington professional educator standards board and the school district employing the person. [2009 c 396 § 8; 2006 c 263 § 828. Prior: 2005 c 421 § 7; 2005 c 237 § 1; 1990 c 33 § 577; 1989 c 320 § 6.]

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.43.850 Organized crime intelligence unit—Created. There is hereby created in the Washington state patrol an organized crime intelligence unit which shall be under the direction of the chief of the Washington state patrol. [1973 1st ex.s. c 202 § 1.]

43.43.852 "Organized crime" defined. For the purposes of *RCW 43.43.850 through 43.43.864 "organized crime" means those activities which are conducted and carried on by members of an organized, disciplined association, engaged in supplying illegal goods and services and/or engaged in criminal activities in contravention of the laws of this state or of the United States. [1973 1st ex.s. c 202 § 2.]

***Reviser's note:** RCW 43.43.858 through 43.43.864 were repealed by 2009 c 560 § 24.

43.43.854 Powers and duties of organized crime intelligence unit. The organized crime intelligence unit shall collect, evaluate, collate, and analyze data and specific investigative information concerning the existence, structure, activities and operations of organized crime and the participants involved therein; coordinate such intelligence data into a centralized system of intelligence information; furnish and exchange pertinent intelligence data with law enforcement agencies and prosecutors with such security and confidentiality as the chief of the Washington state patrol may determine; develop intelligence data concerning the infiltration of organized crime into legitimate businesses within the state of Washington and furnish pertinent intelligence information thereon to law enforcement agencies and prosecutors in affected jurisdictions; and may assist law enforcement agencies and prosecutors in developing evidence for purposes of criminal prosecution of organized crime activities upon request. [1973 1st ex.s. c 202 § 3.]

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43.43.856 Divulging investigative information prohibited—Confidentiality—Security of records and files.

(1)(a) On and after April 26, 1973, it shall be unlawful for any person to divulge specific investigative information pertaining to activities related to organized crime which he or she has obtained by reason of public employment with the state of Washington or its political subdivisions unless such person is authorized or required to do so by operation of state or federal law.

(b) Any person violating (a) of this subsection is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(2) Except as provided in RCW 43.43.854, or pursuant to the rules of the supreme court of Washington, all of the information and data collected and processed by the organized crime intelligence unit shall be confidential and not subject to examination or publication pursuant to chapter 42.56 RCW.

(3) The chief of the Washington state patrol shall prescribe such standards and procedures relating to the security of the records and files of the organized crime intelligence unit, as he or she deems to be in the public interest with the advice of the governor and the board. [2005 c 274 § 298; 2003 c 53 § 230; 1973 1st ex.s. c 202 § 4.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.43.870 Missing children clearinghouse and hotline, duties of state patrol. See chapter 13.60 RCW.

43.43.874 Missing and murdered indigenous women, other indigenous persons—Liaison positions. (1) Two liaison positions for missing and murdered indigenous women and other missing and murdered indigenous persons are established in the Washington state patrol. One liaison must reside in western Washington, and one liaison must reside in eastern Washington. The liaisons shall work to build relationships to increase trust between governmental organizations and native communities. The liaisons shall facilitate communications among:

- (a) Indian tribes and tribal organizations and communities;
- (b) Urban Indian organizations and communities;
- (c) Tribal liaisons in other state agencies;
- (d) Law enforcement agencies at the federal, state, local, and tribal level; and
- (e) Nongovernmental entities that provide services to Native American women.

(2) The salary for the liaison positions is fixed by the Washington state patrol.

(3) To be eligible for hire as a liaison, an applicant must have significant experience living in tribal or urban indigenous communities. [2019 c 127 § 2.]

Findings—Intent—2019 c 127: "The legislature finds that Native American women experience violence at much higher rates than other populations. A recent federal study reported that Native American women are murdered at rates greater than ten times the national average. Many of these crimes, however, are often unsolved or even unreported because there are also very high rates of disappearance for Native American women.

The legislature further finds that although violence against Native American women has been a neglected issue in society, there is a growing awareness of this crisis, as well as a recognition that the criminal justice system needs to better serve and protect Native American women. The legislature intends to find ways to connect state, tribal, and federal resources to cre-

ate partnerships to find ways to solve this crisis facing Native American women in our state, while being mindful to include voices from both tribal and urban communities." [2019 c 127 § 1.]

43.43.876 Missing and murdered indigenous women, other indigenous persons—Protocol—Training. (1) The Washington state patrol must develop a best practices protocol for law enforcement response to missing persons reports for indigenous women and other indigenous persons. The protocol must include steps that law enforcement should take upon receiving a missing persons report for an indigenous woman or other indigenous person.

(2) The governor's office of Indian affairs must provide the Washington state patrol with government-to-government training, and must work with the Washington state patrol to schedule and facilitate the training. [2019 c 127 § 3.]

Findings—Intent—2019 c 127: See note following RCW 43.43.874.

43.43.880 Agreements with contiguous states—Jointly occupied ports of entry—Collection of fees and taxes. The Washington state patrol may negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees, and taxes that may be required by statute or rule. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size, and weight statutes or rules of the respective states. [1988 c 21 § 1.]

43.43.885 Scrap metal no-buy list database program.

(1) Beginning on July 1, 2014, to the extent funds are appropriated, the Washington association of sheriffs and police chiefs shall implement and operate an ongoing electronic statewide no-buy list database program.

(2) The database must be made available on a secured network or website.

(3) The no-buy list database program shall allow for any scrap metal business to enter a customer's name and date of birth into the database. The database must determine if the customer pursuing the transaction with the scrap metal business has been convicted in Washington of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years.

(4) If the customer has been convicted of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years despite whether the person was acting in his or her own behalf or as the agent of another then, at a minimum, the no-buy list database program must immediately send an alert to the scrap metal business stating: (a) That the customer is listed on a current no-buy list, (b) the four-year expiration period for the customer's most recent crime listed, and (c) a notification that entering into a transaction with the customer is prohibited under RCW 9A.56.410.

(5) The database shall also include individuals who have attempted to purchase or sell unlawfully obtained metals at licensed scrap metal recyclers and individuals who attempt to

conduct a transaction while under the influence of controlled substances.

(6) Local jurisdictions applying for grants under RCW 36.28A.240 must provide updates to the no-buy list database annually and 120 days after a grant is distributed. [2022 c 221 § 9; 2013 c 322 § 31.]

Findings—Intent—Effective date—2022 c 221: See notes following RCW 19.290.020.

43.43.887 Scrap metal no-buy list database program—Washington association of sheriffs and police chiefs not liable for civil damages. The Washington association of sheriffs and police chiefs shall not be held liable for civil damages resulting from any act or omission in carrying out the requirements of RCW 43.43.885 other than an act or omission constituting gross negligence or willful or wanton misconduct. [2013 c 322 § 33.]

43.43.912 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 107.]

Additional notes found at www.leg.wa.gov

43.43.930 State fire protection services—Intent. The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. The legislature further finds that the paramount duty of the state in fire protection services is to enhance the capacity of all local jurisdictions to assure that their personnel with fire suppression, prevention, inspection, origin and cause, and arson investigation responsibilities are adequately trained to discharge their responsibilities. It is the intent of the legislature to consolidate fire protection services into a single state agency. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. It is the further intent of the legislature that the fire protection services program be implemented incrementally to assure a smooth transition, to build local, regional, and state capacity, and to avoid undue burdens on jurisdictions with limited resources. [2010 1st sp.s. c 7 § 44; 1995 c 369 § 14; 1993 c 280 § 68; 1986 c 266 § 54. Formerly RCW 43.63A.300.]

State fire protection: Chapter 43.44 RCW.

Additional notes found at www.leg.wa.gov

43.43.934 Director of fire protection—Duties. The director of fire protection shall:

(1)(a)(i) With the state board for community and technical colleges, provide academic, vocational, and field training programs for the fire service; and (ii) with the state colleges and universities, provide instructional programs requiring advanced training, especially in command and management skills;

(b) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(c) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of *chapter 43.19 RCW;

(d) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

(e)(i) Develop and adopt a plan for the Washington state patrol fire training academy to deliver basic firefighter training and testing to all city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies in the state. The plan required by this subsection (1)(e) must specify that the delivery of training and testing services will be provided:

(A) To recipients in the following order of priority:

(I) Volunteer departments;

(II) Combination departments; and

(III) Fire agencies that employ only career firefighters and fire officers; and

(B) By personnel of the fire training academy, either at the academy's facilities in North Bend, Washington, or regionally at local fire agencies.

(ii)(A) In lieu of receiving training and testing services from the fire training academy, city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies in the state may seek reimbursement for their firefighter I training expenses. The amount of reimbursement will be calculated on a per capita basis. The per capita amount is equal to the three-year statewide firefighter per capita average for the regional direct delivery of training by the fire training academy. The three-year statewide firefighter per capita average is calculated by dividing the number of firefighters trained using the regional direct delivery program during the three-year period into the total cost of providing regional direct delivery during the same three-year period. The regional direct delivery costs used for the basis of these calculations does not include the costs of the fire training academy personnel used to coordinate the direct delivery programs, the state's indirect costs, or any other indirect costs.

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(B) Prior to the implementation of the reimbursement provisions in (e)(ii)(A) of this subsection, the amount of reimbursement for city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies must be not less than three dollars for every one hour of firefighter I training, and may not exceed two hundred hours.

(iii) Subject to approval by the director of fire protection, and in accordance with the plan required by this subsection (1)(e), the fire training academy facilities and programs must be made available at no cost to fire service youth programs. The goal of making these facilities and programs available is to increase enrollment of volunteer firefighters, and to improve gender, cultural, and ethnic diversity within the fire service.

(iv) For purposes of this subsection (1)(e), the following definitions apply:

(A) "Basic firefighter training and testing" means training and testing for firefighters that is up to and includes the requirements of firefighter I, as identified by the national fire protection association standard 1001;

(B) "Combination department" means a fire department with emergency service personnel comprising less than eighty-five percent of either volunteer or career membership;

(C) "Delivery of training" includes all resources, personnel, and equipment necessary to deliver training at the fire academy in North Bend, Washington, or regionally at local fire agencies; and

(D) "Volunteer department" means a fire department with volunteer emergency service personnel comprising eighty-five percent or greater of its department membership.

(2)(a) Promote mutual aid and disaster planning for fire services in this state;

(b) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

(c) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the office of the state fire marshal shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the office of the state fire marshal shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs. [2015 c 43 § 1; 2012 c 229 § 818; 2010 1st sp.s. c 7 § 45; 2003 c 316 § 1. Prior: 1999 c 117 § 1; 1999 c 24 § 3; 1998 c 245 § 65; prior: 1995 c 369 § 16; 1995 c 243 § 11; 1993 c 280 § 69; 1986 c 266 § 56. Formerly RCW 43.63A.320.]

*Reviser's note: Requirements for procurement of goods and services are provided in chapter 39.26 RCW.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Findings—1999 c 24: See note following RCW 38.52.505.

Findings—Severability—1995 c 243: See notes following RCW 80.36.555.

Additional notes found at www.leg.wa.gov

43.43.938 Director of fire protection—Appointment—Duties. (1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The chief of the Washington state patrol shall appoint an officer who shall be known as the director of fire protection.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of fire protection shall prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the Washington state patrol's budget request.

(5) The director of fire protection, shall implement and administer, within constraints established by budgeted resources, all duties of the chief of the Washington state patrol that are to be carried out through the director of fire protection, and all of the duties of the director of fire protection. Such administration shall include negotiation of agreements with the state board for community and technical colleges and the state colleges and universities as provided in RCW 43.43.934. Programs covered by such agreements shall include, but not be limited to, planning curricula, developing and delivering instructional programs and materials, and using existing instructional personnel and facilities. Where appropriate, such contracts shall also include planning and conducting instructional programs at the state fire service training center. [2012 c 229 § 819; 2010 1st sp.s. c 7 § 46; 1995 c 369 § 18; 1993 c 280 § 71; 1986 c 266 § 58. Formerly RCW 43.63A.340.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Additional notes found at www.leg.wa.gov

43.43.939 Director of fire protection—Adoption of minimum standard requirements for before-school and after-school programs. The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty to adopt licensing minimum standard requirements for before-school and after-school programs in existing buildings approved by the state fire marshal. [2013 c 227 § 2.]

43.43.940 Fire service training program—Grants and bequests. The Washington state patrol may accept any and all donations, grants, bequests, and devises, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution,

person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in RCW 43.43.934. [1995 c 369 § 19; 1986 c 266 § 59. Formerly RCW 43.63A.350.]

Additional notes found at www.leg.wa.gov

43.43.942 Fire service training—Fees and fee schedules. The Washington state patrol may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training. [1995 c 369 § 20; 1986 c 266 § 60. Formerly RCW 43.63A.360.]

Additional notes found at www.leg.wa.gov

43.43.944 Fire service training account. (1) The fire service training account is hereby established in the state treasury. The primary purpose of the account is firefighter training for both volunteer and career firefighters. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940;

(c) Twenty percent of all moneys received by the state on fire insurance premiums;

(d) Revenue from penalties established under RCW 19.27.740; and

(e) General fund—state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated for: (a) Fire service training; (b) school fire prevention activities within the Washington state patrol; and (c) the maintenance, operations, and capital projects of the state fire training academy. However, expenditures for purposes of (b) and (c) of this subsection may only be made to the extent that these expenditures do not adversely affect expenditures for the purpose of (a) of this subsection. The state patrol may use amounts appropriated from the fire service training account under this section to contract with the Washington state firefighters apprenticeship trust for the operation of the firefighter joint apprenticeship training program. The contract may call for payments on a monthly basis.

(3) Any general fund—state moneys appropriated into the account shall be allocated solely to the firefighter joint apprenticeship training program. The Washington state patrol may contract with outside entities for the administration and delivery of the firefighter joint apprenticeship training program. [2020 c 88 § 6; 2012 c 173 § 1; 2011 1st sp.s. c 48 § 7026; 2010 1st sp.s. c 37 § 923; 2007 c 520 § 6034; 2007 c 290 § 1; 2005 c 518 § 929; 2003 1st sp.s. c 25 § 919; 1999 c 117 § 2; 1995 c 369 § 21; 1986 c 266 § 61. Formerly RCW 43.63A.370.]

Effective date—2020 c 88: See note following RCW 19.27.700.

Additional notes found at www.leg.wa.gov

43.43.946 Fire services trust fund. The fire services trust fund is created in the state treasury. All receipts designated by the legislature shall be deposited in the fund. Appropriations from the fund may be made exclusively for the purposes specified in *RCW 43.63A.377. [1991 c 135 § 2. Formerly RCW 43.63A.375.]

***Reviser's note:** RCW 43.63A.377 was recodified as RCW 43.43.948 pursuant to 1995 c 369 § 69, effective July 1, 1995.

Intent—1991 c 135: "It is necessary for the health, safety, and welfare of the people of the state of Washington that fire code enforcement, public education on fire prevention, fire training for fire and emergency response personnel, and administration of these activities be funded in a dependable manner. It is therefore the intent of the legislature to establish a fund for these purposes." [1991 c 135 § 1.]

Additional notes found at www.leg.wa.gov

43.43.948 Fire services trust fund—Expenditures. Money from the fire services trust fund may be expended for the following purposes:

(1) Training of fire service personnel, including both classroom and hands-on training at the state fire training center or other locations approved by the chief of the Washington state patrol through the director of fire protection services;

(2) Maintenance and operation at the state's fire training center near North Bend. If in the future the state builds or leases other facilities as other fire training centers, a portion of these moneys may be used for the maintenance and operation at these centers;

(3) Lease or purchase of equipment for use in the provisions of training to fire service personnel;

(4) Grants or subsidies to local jurisdictions to allow them to perform their functions under this section;

(5) Costs of administering these programs under this section;

(6) Licensing and enforcement of state laws governing the sales of fireworks; and

(7) Development with the legal fireworks industry and funding of a statewide public education program for fireworks safety. [1995 c 369 § 22; 1991 c 135 § 3. Formerly RCW 43.63A.377.]

Intent—Effective date—Severability—1991 c 135: See notes following RCW 43.43.946.

Additional notes found at www.leg.wa.gov

43.43.950 Fire service training center bond retirement account of 1977. The state fire service training center bond retirement account of 1977 is hereby reestablished as an account within the treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to chapter 349, Laws of 1977 ex. sess., or chapter 470, Laws of 1985 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the commission for vocational education or the statutory successor to its powers and duties involving the state fire training center.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 13 § 79. Formerly RCW 43.63A.380.]

Additional notes found at www.leg.wa.gov

(2022 Ed.)

43.43.952 Arson investigation information system—Findings—Intent. (1) The legislature finds that provisions for information systems relating to statistics and reporting for fire prevention, suppression, and damage control do not adequately address the needs of ongoing investigations of fire incidents where the cause is suspected or determined to be the result of negligence or otherwise suggestive of some criminal activity, particularly that of arson. It is the intent of the legislature to establish an information and reporting system designed specifically to assist state and local officers in conducting such investigations and, where substantiated, to undertake prosecution of individuals suspected of such activities.

(2)(a) In addition to the information provided by local officials about the cause, origin, and extent of loss in fires under *chapter 48.48 RCW, there is hereby created the state arson investigation information system in the Washington state patrol.

(b) The chief of the Washington state patrol shall develop the arson investigation information system in consultation with representatives of the various state and local officials charged with investigating fires resulting from suspicious or criminal activities under *chapter 48.48 RCW and of the insurance industry.

(c) The arson investigation information system shall be designed to include at least the following attributes: (i) The information gathered and reported shall meet the diverse needs of state and local investigating agencies; (ii) the forms and reports are drafted in understandable terms of common usage; and (iii) the results shall be adaptable to the varying levels of available resources, maintained in a manner to foster data sharing and mutual aid activities, and made available to other law enforcement agencies responsible for criminal investigations.

(d) All insurers required to report claim information under the provisions of chapter 48.50 RCW shall cooperate fully with any requests from the chief of the Washington state patrol in developing and maintaining the arson investigation information system. The confidentiality provisions of that chapter shall be fully enforced. [1995 c 369 § 64.]

***Reviser's note:** Chapter 48.48 RCW was recodified as chapter 43.44 RCW pursuant to 2006 c 25 § 13.

Additional notes found at www.leg.wa.gov

STATE FIRE SERVICE MOBILIZATION

43.43.960 State fire service mobilization—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this subchapter.

(1) "All risk resources" means those resources regularly provided by fire departments, fire districts, and regional fire protection service authorities required to respond to natural or man-made incidents, including but not limited to:

- (a) Wild land fires;
- (b) Landslides;
- (c) Earthquakes;
- (d) Floods; and
- (e) Contagious diseases.

(2) "Chief" means the chief of the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, regional fire protection service authority, or port district units, or other units covered by this chapter.

(5) "Mobilization" means that all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide risk resources to either direct emergency incident assignments or to assignment in communities where resources are needed. All risk resources may not be mobilized to assist law enforcement with police activities during a civil protest or demonstration, or other exercise by the people of their constitutionally protected First Amendment rights, or other protected concerted activity, however, fire departments, fire districts, and regional fire protection service authorities are not restricted from providing medical care or aid and firefighting when mobilized for any purpose.

When mobilization is declared and authorized as provided in this chapter, all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All non-host fire protection authorities providing resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

(7) "State fire marshal" means the director of fire protection in the Washington state patrol. [2019 c 259 § 1. Prior: 2015 c 181 § 2; 2003 c 405 § 1; 1997 c 49 § 8; prior: 1995 c 391 § 5; 1995 c 369 § 10; 1992 c 117 § 9. Formerly RCW 38.54.010.]

Effective date—2019 c 259: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 259 § 3.]

Intent—2015 c 181: See note following RCW 43.43.965.

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.961 State fire service mobilization—Legislative declaration and intent. Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to pro-

vide for reimbursement to state agencies and local agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of all risk resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the chief the powers provided herein;

(3) Provide a means for reimbursement to state agencies and local fire jurisdictions that incur expenses when mobilized by the chief under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of the host fire department or fire protection district when it has: (a) Exhausted all of its resources; and (b) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing all risk resources for mobilization provided that the mobilization must meet the requirements identified in the Washington state fire service mobilization plan. [2015 c 181 § 3; 2003 c 405 § 2; 1997 c 49 § 9; 1995 c 391 § 6; 1992 c 117 § 10. Formerly RCW 38.54.020.]

Intent—2015 c 181: See note following RCW 43.43.965.

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.962 State fire service mobilization—State fire services mobilization plan—State fire resources coordinator. The director of fire protection shall review and make recommendations to the chief on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the director of fire protection shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The chief shall review the fire services mobilization plan as submitted by the director of fire protection, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the chief to mobilize jurisdictions under the Washington state fire services mobilization

plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized. [2010 1st sp.s. c 7 § 47; 2003 c 405 § 3; 1997 c 49 § 10; 1995 c 269 § 1101; 1992 c 117 § 11. Formerly RCW 38.54.030.]

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.963 State fire service mobilization—Regional fire defense boards—Regional fire service plans—Regions established. (1) Regions within the state are initially established as follows but may be adjusted as necessary by the state fire marshal:

(a) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;

(b) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, and Lincoln counties;

(c) Olympic region - Clallam and Jefferson counties;

(d) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;

(e) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams, Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties;

(f) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties; and

(g) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

(2)(a) There is created a regional fire defense board within each region created in subsection (1) of this section.

(b) The regional fire defense boards shall consist of two members from each county in the region. One member from each county shall be appointed by the county fire chiefs' association or, in the event there is no such county association, by the county's legislative authority. Each county's office of emergency management or, in the event there is no such office, the county's legislative authority shall select the second representative to the regional board. The department of natural resources fire control chief shall appoint a representative from each department of natural resources region to serve as a member of the appropriate regional fire defense board.

(c) Members of each regional board will select a chairperson and secretary as officers. Members serving on the regional boards do so in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

(3)(a) Regional defense boards shall develop regional fire service plans that include provisions for organized fire agencies to respond across municipal, county, or regional boundaries.

(b) Each regional plan shall be consistent with the incident command system, the Washington state fire services mobilization plan, the requirements of this section, and regional response plans already adopted and in use in the state. The regional boards shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional fire service plan.

(c) Each regional fire service plan must include a mechanism by which a local fire mobilization radio frequency, consistent with RCW 76.04.015, is identified and made avail-

able during the initial response to any forest fire that crosses jurisdictional lines so that all responders have access to communications during the response. Different initial response frequencies may be identified and used as appropriate in different geographic response areas. If the fire radio communication needs escalate beyond the capability of the identified local radio frequency, the use of other available designated interoperability radio frequencies may be used.

(d) Each regional fire service plan shall be approved by the director of fire protection. [2010 1st sp.s. c 7 § 48; 2010 c 38 § 2; 1997 c 49 § 11; 1992 c 117 § 12. Formerly RCW 38.54.040.]

Reviser's note: This section was amended by 2010 c 38 § 2 and by 2010 1st sp.s. c 7 § 48, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.964 State fire service mobilization—Development of reimbursement procedures. The Washington state patrol in consultation with the office of financial management and the Washington military department shall develop procedures to facilitate reimbursement to state agencies and jurisdictions from appropriate federal and state funds when state agencies and jurisdictions are mobilized by the chief under the Washington state fire services mobilization plan. The Washington state patrol shall ensure that these procedures provide reimbursement to the host district in as timely a manner as possible. [2003 c 405 § 4; 1997 c 49 § 12; 1995 c 391 § 7; 1992 c 117 § 13. Formerly RCW 38.54.050.]

Findings—1992 c 117: See note following RCW 35.21.775.

Additional notes found at www.leg.wa.gov

43.43.965 State fire service mobilization—Plan use for purposes other than fire suppression—Annual report. The chief of the Washington state patrol must report on an annual basis the following information for each emergency or disaster in which the Washington state fire service mobilization plan was used for purposes other than fire suppression, and reimbursement was made under RCW 43.43.961:

(1) The type and nature of the disaster or emergency;

(2) The reasons why the host jurisdiction and mutual aid resources were exhausted;

(3) The additional risk resources provided under the mobilization plan;

(4) The cost incurred by the state patrol;

(5) The amount of reimbursement made under RCW 43.43.961 to the host jurisdiction and to each nonhost jurisdiction providing all risk resources; and

(6) An assessment and any recommendations of actions that can be taken by the host jurisdiction and its mutual aid network to prevent future use of the fire mobilization plan for similar disasters or emergencies. [2015 c 181 § 4.]

Intent—2015 c 181: "The legislature recognizes the vital role that our state's fire service personnel play in responding not just to fires but to disasters of varying types and kinds. The legislature further recognizes that the fire service mobilization plan may be a more effective tool for use in all emergencies and disasters to which fire departments, fire districts, and regional fire protection service authorities typically respond. It is the intent of the legislature that state fire service mobilization be allowed in all incidents to which fire departments, fire districts, and regional fire protection service authorities typically respond, so long as the mobilization meets the

requirements identified in the Washington state fire service mobilization plan. It is the intent of the legislature to review the use of the fire mobilization plan for emergencies and disasters other than fire suppression to determine if this policy should continue or be modified." [2015 c 181 § 1.]

43.43.970 Law enforcement mobilization—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any general purpose law enforcement agency as defined in RCW 10.93.020.

(2) "Board" means the state law enforcement mobilization policy board.

(3) "Chief" means the chief of the Washington state patrol.

(4) "Chief law enforcement officer" means the chief of police or sheriff responsible for law enforcement services in the jurisdiction in which the emergency is occurring.

(5) "General authority Washington peace officer" means a general authority Washington peace officer as defined in RCW 10.93.020.

(6) "Host agency" means the law enforcement agency that requests statewide mobilization under RCW 43.43.970 through 43.43.975.

(7) "Mobilization" means a redistribution of regional and statewide law enforcement resources in response to an emergency or disaster situation.

(8) "Mutual aid" means emergency interagency assistance provided without compensation pursuant to an agreement under chapter 39.34 RCW.

(9) "Resource coordination" means the effort to locate and arrange for the delivery of resources needed by chief law enforcement officers.

(10) "State law enforcement resource coordinator" means a designated individual or agency selected by the chief to perform the responsibilities of that position. [2003 c 405 § 6.]

Legislative declaration and intent—2003 c 405: "(1) Because of the possibility of a disaster of unprecedented size and destruction, including acts of domestic terrorism and civil unrest, that requires law enforcement response for the protection of persons or property and preservation of the peace, the need exists to ensure that the state is adequately prepared to respond to such an incident. There is a need to (a) establish a mechanism and a procedure to provide for reimbursement to law enforcement agencies that respond to help others in time of need, and to host law enforcement agencies that experience expenses beyond the resources of the agencies; and (b) generally to protect the public safety, peace, health, lives, and property of the people of Washington.

(2) It is hereby declared necessary to:

(a) Provide the policy and organizational structure for large-scale mobilization of law enforcement resources in the state, using the incident command system, through creation of the Washington state law enforcement mobilization plan;

(b) Confer upon the chief of the Washington state patrol the powers provided in this chapter;

(c) Provide a means for reimbursement to law enforcement jurisdictions that incur expenses when mobilized by the chief under the Washington state law enforcement mobilization plan; and

(d) Provide for reimbursement of the host law enforcement agency when it has:

(i) Exhausted all of its resources; and

(ii) Invoked its local mutual aid network and exhausted those resources." [2003 c 405 § 5.]

43.43.971 Law enforcement mobilization—State law enforcement mobilization policy board—State law enforcement mobilization plan. (1) The state law enforcement mobilization policy board shall be established by the

chief and shall have representatives from each of the regions established in RCW 43.43.974. In carrying out its duty, the board shall consult with and solicit recommendations from representatives of the state and local law enforcement and emergency management organizations, and regional law enforcement mobilization committees.

(2) The board shall establish and make recommendations to the chief on the refinement and maintenance of the Washington state law enforcement mobilization plan, including the procedures to be used during an emergency or disaster response requiring coordination of local, regional, and state law enforcement resources.

(3) The chief shall review the Washington state law enforcement mobilization plan, as submitted by the board, recommend changes as necessary, and may approve the plan. The plan shall be consistent with the Washington state comprehensive emergency management plan. The chief may recommend the plan for inclusion within the state comprehensive emergency management plan established under chapter 38.52 RCW. [2003 c 405 § 7.]

43.43.972 Law enforcement mobilization—Local law enforcement request for mobilization—State law enforcement resource coordinator—Mobilization response—Declaration of end of mobilization. (1) Local law enforcement may request mobilization only in response to an emergency or disaster exceeding the capabilities of available local resources and those available through existing mutual aid agreements. Upon finding that the local jurisdiction has exhausted all available resources, it is the responsibility of the chief to determine whether mobilization is the appropriate response to the emergency or disaster and, if so, to mobilize jurisdictions under the Washington state law enforcement mobilization plan.

(2) Upon mobilization, the chief shall appoint a state law enforcement resource coordinator, and an alternate, who shall serve jointly with the chief law enforcement officer from the host agency to command the mobilization effort consistent with incident command system procedures.

(3) Upon mobilization, all law enforcement resources including those of the host agency and those that responded earlier under an existing mutual aid or other agreement shall be mobilized. Mobilization may include the redistribution of regional or statewide law enforcement resources to either direct emergency incident assignments or to assignments in communities where law enforcement resources are needed.

(4) For the duration of the mobilization:

(a) Host agency resources shall become state law enforcement mobilization resources, under the command of the state law enforcement resource coordinator and the chief law enforcement officer from the host agency, consistent with the state law enforcement mobilization plan and incident command system procedures; and

(b) All law enforcement authorities providing resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter.

(5) The chief, in consultation with the regional law enforcement resource coordinator, shall determine when mobilization is no longer required and shall then declare the end to the mobilization. [2003 c 405 § 8.]

43.43.973 State law enforcement mobilization—State law enforcement coordinator—Duties. (1) The state law enforcement resource coordinator, or alternate, shall serve in that capacity for the duration of the mobilization.

(2) The duties of the coordinator are to:

(a) Coordinate the mobilization of law enforcement and other support resources within a region;

(b) Be primarily responsible for the coordination of resources in conjunction with the regional law enforcement mobilization committees, in the case of incidents involving more than one region or when resources from more than one region must be mobilized; and

(c) Advise and consult with the chief regarding what resources are required in response to the emergency or disaster and in regard to when the mobilization should end. [2003 c 405 § 9.]

43.43.974 State law enforcement mobilization—Regions established—Regional law enforcement mobilization committees—Regional law enforcement mobilization plans. (1) Regions within the state are initially established as follows and may be adjusted as necessary by the state law enforcement policy board, but should remain consistent with the Washington state fire defense regions:

(a) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties;

(b) Lower Columbia region - Kittitas, Yakima, and Klickitat counties;

(c) Mid-Columbia region - Chelan, Douglas, and Grant counties;

(d) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, Adams, and Lincoln counties;

(e) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;

(f) Olympic region - Clallam and Jefferson counties;

(g) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;

(h) Southeast region - Benton, Franklin, Walla Walla, Columbia, Whitman, Garfield, and Asotin counties;

(i) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

(2) Within each of the regions there is created a regional law enforcement mobilization committee. The committees shall consist of the sheriff of each county in the region, the district commander of the Washington state patrol from the region, a number of police chiefs within the region equivalent to the number of counties within the region plus one, and the director of the counties' emergency management office. The police chief members of each regional committee must include the chiefs of police of each city of ninety-five thousand or more population, and the number of members of the committee shall be increased if necessary to accommodate such chiefs. Members of each regional mobilization committee shall select a chair, who shall have authority to implement the regional plan, and a secretary as officers. Members serving on the regional mobilization committees shall not be eligible for reimbursement for meeting-related expenses from the state.

(3) The regional mobilization committees shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agree-

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ments are required to implement a regional law enforcement mobilization plan.

(4) Regional mobilization committees shall develop regional law enforcement mobilization plans that include provisions for organized law enforcement agencies to respond across municipal, county, or regional boundaries. Each regional mobilization plan shall be consistent with the incident command system, the Washington state law enforcement mobilization plan, and regional response plans adopted prior to July 27, 2003.

(5) Each regional plan adopted under subsection (4) of this section shall be approved by the state law enforcement mobilization policy board before implementation. [2003 c 405 § 10.]

43.43.975 State law enforcement mobilization—Development of reimbursement procedures—Eligibility of nonhost law enforcement authority for reimbursement.

The state patrol in consultation with the Washington association of sheriffs and police chiefs and the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from funds appropriated specifically for this purpose when jurisdictions are mobilized under the Washington state law enforcement mobilization plan.

Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost law enforcement authority for reimbursement of expenses incurred in providing law enforcement resources for mobilization. [2003 c 405 § 11.]

Chapter 43.44 RCW STATE FIRE PROTECTION

Sections

43.44.010	Examination of premises.
43.44.020	Standards of safety.
43.44.030	Schools—Compliance with standards for fire prevention and safety—Plan reviews and construction inspections.
43.44.040	Removal of fire hazards—Appeal of order—Penalty.
43.44.050	Reports and investigation of fires—Police powers.
43.44.060	Statistical information and reports—National fire incident reporting system.
43.44.070	Examination of witnesses.
43.44.080	Criminal prosecutions.
43.44.090	Record of fires.
43.44.110	Smoke detection devices in dwelling units—Penalties.
43.44.115	Smoke detection device awareness account.
43.44.120	Premises with guard animals—Registration, posting—Acts permitted firefighters—Liability for injury to firefighters.
43.44.130	Hazardous liquid and gas pipeline accidents—Preparedness of local first responders.

43.44.010 Examination of premises. (1) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall have authority at all times of day and night, in the performance of duties imposed by this chapter, to enter upon and examine any building or premises where any fire has occurred and other buildings and premises adjoining or near thereto.

(2) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall have authority at any reasonable hour to enter into any public building or premises or any building or premises used for public purposes to inspect for fire hazards. [1995 c 369 §

25; 1986 c 266 § 67; 1985 c 470 § 17; 1947 c 79 § .33.03; Rem. Supp. 1947 § 45.33.03. Formerly RCW 48.48.030.]

Additional notes found at www.leg.wa.gov

43.44.020 Standards of safety. (1) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall have authority to enter upon all premises and into all buildings except private dwellings for the purpose of inspection to ascertain if any fire hazard exists, and to require conformance with minimum standards for the prevention of fire and for the protection of life and property against fire and panic as to use of premises, and may adopt by reference nationally recognized standards applicable to local conditions.

(2) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, may, upon request by the chief fire official or the local governing body or of taxpayers of such area, assist in the enforcement of any such code. [1995 c 369 § 26; 1986 c 266 § 68; 1985 c 470 § 18; 1947 c 79 § .33.04; Rem. Supp. 1947 § 45.33.04. Formerly RCW 48.48.040.]

Additional notes found at www.leg.wa.gov

43.44.030 Schools—Compliance with standards for fire prevention and safety—Plan reviews and construction inspections. The director of fire protection shall make or cause to be made plan reviews and construction inspections for all E-1 occupancies as may be necessary to insure compliance with the state building code and standards for schools adopted under chapter 19.27 RCW. Nothing in this section prohibits the director of fire protection from delegating construction inspection authority to any local jurisdiction. [2010 1st sp.s. c 7 § 49; 1991 c 170 § 2; 1986 c 266 § 69; 1985 c 470 § 19; 1981 c 198 § 3; 1972 ex.s. c 70 § 1. Formerly RCW 48.48.045.]

Additional notes found at www.leg.wa.gov

43.44.040 Removal of fire hazards—Appeal of order—Penalty. (1) If the chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, finds in any building or premises subject to their inspection under this chapter, any combustible material or flammable conditions or fire hazards dangerous to the safety of the building, premises, or to the public, he or she shall by written order require such condition to be remedied, and such order shall forthwith be complied with by the owner or occupant of the building or premises.

(2) An owner or occupant aggrieved by any such order made by the chief of the Washington state patrol, through the director of fire protection or his or her deputy, may appeal such order pursuant to chapter 34.05 RCW. If the order is confirmed, the order shall remain in force and be complied with by the owner or occupant.

(3) Any owner or occupant failing to comply with any such order not appealed from or with any order so confirmed shall be punishable by a fine of not less than ten dollars nor more than fifty dollars for each day such failure exists. [1995 c 369 § 27; 1986 c 266 § 70; 1985 c 470 § 20; 1947 c 79 § .33.05; Rem. Supp. 1947 § 45.33.05. Formerly RCW 48.48.050.]

Additional notes found at www.leg.wa.gov

43.44.050 Reports and investigation of fires—Police powers. (1) The responsibility for investigating the origin, cause, circumstances, and extent of loss of all fires shall be assigned as follows:

(a) Within any city or town, the chief of the fire department;

(b) Within unincorporated areas of a county, the county fire marshal, or other fire official so designated by the county legislative authority.

(2) No fire marshal, or other person, may enter the scene of an emergency until permitted by the officer in charge of the emergency incident.

(3) Nothing shall prevent any city, town, county, or fire protection district, or any combination thereof, from entering into interlocal agreements to meet the responsibility required by this section.

(4) When any fire investigation indicates that the cause of the fire is determined to be suspicious or criminal in nature, the person responsible for the fire investigation shall immediately report the results of said investigation to the local law enforcement agency and the chief of the Washington state patrol, through the state fire marshal.

(5) In addition to the responsibility imposed by this section, any law enforcement agency, sheriff, or chief of police may assist in the investigation of the origin, cause, circumstances, and extent of loss of all fires within his or her respective jurisdiction.

(6) The chief of the Washington state patrol, through the director of fire protection or his or her deputy, may investigate any fire for the purpose of determining its cause, origin, and the extent of the loss. The chief of the Washington state patrol, through the director of fire protection or his or her deputy, shall assist in the investigation of those fires of criminal, suspected, or undetermined cause when requested by the reporting agency. In the investigation of any fire of criminal, suspected, or undetermined cause, the chief of the Washington state patrol and the director of fire protection or his or her deputy, are vested with police powers to enforce the laws of this state. To exercise these powers, authorized deputies must receive prior written authorization from the chief of the Washington state patrol, through the director of fire protection, and shall have completed a course of training prescribed by the Washington state criminal justice training commission. [1996 c 161 § 1; 1995 c 369 § 28; 1986 c 266 § 71; 1985 c 470 § 21; 1981 c 104 § 1; 1980 c 181 § 1; 1947 c 79 § .33.06; Rem. Supp. 1947 § 45.33.06. Formerly RCW 48.48.060.]

Additional notes found at www.leg.wa.gov

43.44.060 Statistical information and reports—National fire incident reporting system. (1) The chief of each organized fire department, or the sheriff or other designated county official having jurisdiction over areas not within the jurisdiction of any fire department, shall report statistical information and data to the chief of the Washington state patrol, through the director of fire protection, on each fire occurring within the official's jurisdiction and, within two business days, report any death resulting from fire.

(2) Reports submitted pursuant to subsection (1) of this section shall be consistent with the national fire incident reporting system developed by the United States fire admin-

istration and rules established by the chief of the Washington state patrol, through the director of fire protection. Rules established by the chief of the Washington state patrol, through the director of fire protection, must require fire departments to report data on the age of any structure involved in a fire when that information is available through property records or other methods.

(3) Subject to availability of amounts appropriated for this specific purpose, the chief of the Washington state patrol, through the director of fire protection, shall administer the national fire incident reporting system including, but not limited to, the following responsibilities:

(a) Purchasing equipment, including software, needed for the operation of the reporting system;

(b) Establishing procedures, standards, and guidelines pertaining to the statistical information and data reported by fire departments through the reporting system;

(c) Providing training and education to fire departments pertaining to the reporting system; and

(d) Employing staff to administer the reporting system, as needed.

(4) The chief of the Washington state patrol, through the director of fire protection, and the department of natural resources shall jointly determine the statistical information to be reported on fires on land under the jurisdiction of the department of natural resources.

(5) The chief of the Washington state patrol, through the director of fire protection, shall analyze the information and data reported, compile a report, and distribute a copy annually by July 1st to each chief fire official in the state. Upon request, the chief of the Washington state patrol, through the director of fire protection, shall also furnish a copy of the report to any other interested person at cost.

(6) For purposes of this section, "national fire incident reporting system" or "reporting system" means the national fire incident reporting system or the state equivalent as selected by the chief of the Washington state patrol, through the director of fire protection. [2017 c 308 § 1; 2010 1st sp.s. c 7 § 50; 1999 c 231 § 1; 1995 c 369 § 29; 1986 c 266 § 72; 1985 c 470 § 22; 1980 c 181 § 2. Formerly RCW 48.48.065.]

Additional notes found at www.leg.wa.gov

43.44.070 Examination of witnesses. In the conduct of any investigation into the cause, origin, or loss resulting from any fire, the chief of the Washington state patrol and the director of fire protection shall have the same power and rights relative to securing the attendance of witnesses and the taking of testimony under oath as is conferred upon the insurance commissioner under RCW 48.03.070. False swearing by any such witness shall be deemed to be perjury and shall be subject to punishment as such. [1995 c 369 § 30; 1986 c 266 § 73; 1985 c 470 § 23; 1947 c 79 § .33.07; Rem. Supp. 1947 § 45.33.07. Formerly RCW 48.48.070.]

Additional notes found at www.leg.wa.gov

43.44.080 Criminal prosecutions. If as the result of any such investigation, or because of any information received, the chief of the Washington state patrol, through the director of fire protection, is of the opinion that there is evidence sufficient to charge any person with any crime, he or she may cause such person to be arrested and charged with

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such offense, and shall furnish to the prosecuting attorney of the county in which the offense was committed, the names of witnesses and all pertinent and material evidence and testimony within his or her possession relative to the offense. [1995 c 369 § 31; 1986 c 266 § 74; 1985 c 470 § 24; 1947 c 79 § .33.08; Rem. Supp. 1947 § 45.33.08. Formerly RCW 48.48.080.]

Additional notes found at www.leg.wa.gov

43.44.090 Record of fires. The chief of the Washington state patrol, through the director of fire protection, shall keep on file all reports of fires made to him or her pursuant to this code. Such records shall at all times during business hours be open to public inspection; except, that any testimony taken in a fire investigation may, in the discretion of the chief of the Washington state patrol, through the director of fire protection, be withheld from public scrutiny. The chief of the Washington state patrol, through the director of fire protection, may destroy any such report after five years from its date. [1995 c 369 § 32; 1986 c 266 § 75; 1985 c 470 § 25; 1947 c 79 § .33.09; Rem. Supp. 1947 § 45.33.09. Formerly RCW 48.48.090.]

Additional notes found at www.leg.wa.gov

43.44.110 Smoke detection devices in dwelling units—Penalties. (1) Smoke detection devices shall be installed inside all dwelling units:

(a) Occupied by persons other than the owner on and after December 31, 1981;

(b) Built or manufactured in this state after December 31, 1980; or

(c) Sold on or after July 1, 2019.

(2) The smoke detection devices shall be designed, manufactured, and installed inside dwelling units in conformance with:

(a) Nationally accepted standards; and

(b) As provided by the administrative procedure act, chapter 34.05 RCW, rules and regulations promulgated by the chief of the Washington state patrol, through the director of fire protection.

(3) Installation of smoke detection devices shall be the responsibility of the owner. Maintenance of smoke detection devices, including the replacement of batteries where required for the proper operation of the smoke detection device, shall be the responsibility of the tenant, who shall maintain the device as specified by the manufacturer. At the time of a vacancy, the owner shall insure that the smoke detection device is operational prior to the reoccupancy of the dwelling unit.

(4)(a) For any dwelling unit sold on or after July 1, 2019, that does not have at least one smoke detection device, the seller shall provide at least one smoke detection device in the dwelling unit before the buyer or any other person occupies the dwelling unit following such sale. A violation of this subsection does not affect the transfer of the title, ownership, or possession of the dwelling unit.

(b) Real estate brokers licensed under chapter 18.85 RCW are not liable in any civil, administrative, or other proceeding for the failure of any seller or other property owner to comply with the requirements of this section.

(c) Any person or entity that assists the buyer of a dwelling [unit] with installing a smoke detection device, whether they are voluntarily doing so or as a nonprofit, is not liable in any civil, administrative, or other proceeding relating to the installation of the smoke detection device.

(d) Interconnection of smoke detection devices is not required where not already present in buildings undergoing repairs undertaken solely as a condition of sale.

(5)(a) Except as provided in (b) of this subsection (5), any owner, seller, or tenant failing to comply with this section shall be punished by a fine of not more than two hundred dollars.

(b) Any owner failing to comply with this section shall be punished by a fine of five thousand dollars if, after such failure, a fire causes property damage, personal injury, or death to a tenant or a member of a tenant's household. All moneys received pursuant to (a) or (b) of this subsection, except for administrative costs for enforcing the fine, shall be deposited into the smoke detection device awareness account created in RCW 43.44.115. Enforcement shall occur after a fire occurs and when it is evident that the dwelling unit sold on or after July 1, 2019, did not have at least one smoke detection device. The following may enforce this subsection:

(i) The chief of the fire department if the dwelling unit is located within a city or town; or

(ii) The county fire marshal or other fire official so designated by the county legislative authority if the dwelling unit is located within unincorporated areas of a county.

(6) For the purposes of this section:

(a) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation; and

(b) "Smoke detection device" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation. [2019 c 455 § 1; 1995 c 369 § 34; 1991 c 154 § 1; 1986 c 266 § 89; 1980 c 50 § 1. Formerly RCW 48.48.140.]

Effective date—2019 c 455 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 455 § 7.]

Short title—2019 c 455: "This act shall be known and cited as the Greg "Gibby" Gibson home fire safety act." [2019 c 455 § 5.]

Additional notes found at www.leg.wa.gov

43.44.115 Smoke detection device awareness account. The smoke detection device awareness account is created in the custody of the state treasurer. All receipts from fines imposed pursuant to RCW 43.44.110(5) must be deposited into the account. Expenditures from the account may be used only for the purposes of raising public awareness of owners and tenants' duties pertaining to smoke detection devices under RCW 43.44.110 and of the danger to life and property resulting from a failure to comply with those duties and for administrative costs related to enforcement of the fine created in RCW 43.44.110(5)(b). Only the Washington state patrol, through the director of fire protection or the director of fire protection's authorized deputy, may authorize expendi-

tures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2019 c 455 § 2.]

Short title—2019 c 455: See note following RCW 43.44.110.

43.44.120 Premises with guard animals—Registration, posting—Acts permitted firefighters—Liability for injury to firefighters. (1) All premises guarded by guard animals, which are animals professionally trained to defend and protect premises or the occupants of the premises, shall be registered with the local fire department. Front entrances to residences and all entrances to business premises shall be posted in a visible location with signs approved by the chief of the Washington state patrol, through the director of fire protection, indicating that guard animals are present.

(2) A firefighter, who reasonably believes that his or her safety is endangered by the presence of a guard animal, may without liability: (a) Refuse to enter the premises, or (b) take any reasonable action necessary to protect himself or herself from attack by the guard animal.

(3) If the person responsible for the guard animal being on the premises does not comply with subsection (1) of this section, that person may be held liable for any injury to the firefighter caused by the presence of the guard animal. [1995 c 369 § 35; 1986 c 266 § 90; 1983 c 258 § 1. Formerly RCW 48.48.150.]

Additional notes found at www.leg.wa.gov

43.44.130 Hazardous liquid and gas pipeline accidents—Preparedness of local first responders. (1) The chief of the Washington state patrol, through the director of fire protection or his or her authorized deputy, shall, in consultation with the emergency management program within the state military department, the department of ecology, the utilities and transportation commission, and local emergency services organizations:

(a) Evaluate the preparedness of local first responders in meeting emergency management demands under subsection (2) of this section; and

(b) Conduct an assessment of the equipment and personnel needed by local first responders to meet emergency management demands related to pipelines.

(2) The chief of the Washington state patrol, through the director of fire protection or his or her deputy, shall develop curricula for training local first responders to deal with hazardous liquid and gas pipeline accidents. The curricula shall be developed in conjunction with pipeline companies and local first responders, and shall include a timetable and costs for providing training as defined in the curricula to all communities housing pipelines. Separate curricula shall be developed for hazardous liquid and gas pipelines so that the differences between pipelines may be recognized and appropriate accident responses provided. The need for a training program for regional incident management teams shall also be evaluated.

(3) In consultation with other relevant agencies, the chief of the Washington state patrol, through the director of fire protection or his or her deputy, shall identify the need and means for achieving consistent application of the national interagency incident management system.

(4) For the purposes of this section, "local first responders" means police, fire, emergency medical staff, and volunteers. [2000 c 191 § 20. Formerly RCW 48.48.160.]

Intent—Findings—Conflict with federal requirements—Short title—Effective date—2000 c 191: See RCW 81.88.005 and 81.88.900 through 81.88.902.

Chapter 43.46 RCW ARTS COMMISSION

Sections

43.46.005	Purpose.
43.46.015	Washington state arts commission established—Composition.
43.46.030	Terms—Vacancies.
43.46.040	Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum.
43.46.045	Executive director—Employees.
43.46.050	Powers and duties generally.
43.46.055	Development of arts and humanities.
43.46.060	Gifts and grants.
43.46.070	Biennial report.
43.46.081	Poet laureate program.
43.46.085	Poet laureate account.
43.46.090	Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established.
43.46.095	State art collection.
43.46.100	Creative districts—Definitions.
43.46.105	Creative districts—Designation—Certification.
43.46.110	Creative districts—Applications for certification—Review—Approval, rejection, revocation—Additional powers of commission.
43.46.115	Creative districts—Coordinator.
43.46.900	Effective date—1985 c 317.

43.46.005 Purpose. The conservation and development of the state's artistic resources is essential to the social, educational, and economic growth of the state of Washington. Artists, works of art, and artistic institutions contribute to the quality of life and the general welfare of the citizens of the state, and are an appropriate matter of concern to the government of the state of Washington. [1985 c 317 § 1.]

43.46.015 Washington state arts commission established—Composition. There is established a Washington state arts commission. The commission consists of nineteen members appointed by the governor and four members of the legislature, one from each caucus in the senate and appointed by the president of the senate and one from each caucus in the house of representatives and appointed by the speaker of the house of representatives. The governor shall appoint citizens representing the various disciplines within the visual, performing and literary arts, and other citizens active in the arts community. The governor shall consider nominations for membership from individuals actively involved in cultural, state or community organizations. The governor shall also consider geographical distribution of the membership in the appointment of new members. [1999 c 241 § 1; 1985 c 317 § 2.]

43.46.030 Terms—Vacancies. Members shall serve three year terms. A legislative member shall serve as long as he or she is a member of the legislative body from which he or she was appointed. Each member will continue to serve until a successor is appointed. Vacancies shall be filled by appointment for the remainder of the unexpired term. [1985

c 317 § 3; 1967 ex.s. c 125 § 4; 1965 c 8 § 43.46.030. Prior: 1961 c 301 § 3.]

43.46.040 Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum. Members of the commission shall serve without compensation. However, nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and legislative members shall be reimbursed as provided in RCW 44.04.120. The commission shall organize, elect a chairperson annually, and adopt rules pursuant to chapter 34.05 RCW. A majority of its members constitute a quorum. Any action as defined in RCW 42.30.020(3) shall be taken only at a meeting at which a quorum is present. [1985 c 317 § 4; 1965 c 8 § 43.46.040. Prior: 1961 c 301 § 4.]

43.46.045 Executive director—Employees. The governor shall select a full time executive director from a list of three names submitted by the commission by September 1, 1988, and anytime thereafter that a vacancy occurs. The executive director shall receive no other salary and shall not be otherwise gainfully employed. Subject to the provisions of chapter 41.06 RCW, the executive director may also employ such clerical and other assistants as may be reasonably required to carry out commission functions. The executive director shall serve at the pleasure of the governor. [1988 c 81 § 23; 1985 c 317 § 5; 1967 ex.s. c 125 § 2.]

43.46.050 Powers and duties generally. The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the cultural development of the state of Washington. [1985 c 317 § 6; 1965 c 8 § 43.46.050. Prior: 1961 c 301 § 5.]

43.46.055 Development of arts and humanities. The commission may develop, sponsor, promote and administer any activity, project, or program within or without this state which is related to the growth and development of the arts and humanities in the state of Washington and may assist any person or public or private agency to this end. [1985 c 317 § 7; 1967 ex.s. c 125 § 1.]

43.46.060 Gifts and grants. The commission may accept gifts and grants upon such terms as the commission shall deem proper. [1965 c 8 § 43.46.060. Prior: 1961 c 301 § 6.]

43.46.070 Biennial report. The commission shall make a biennial report of its proceedings and recommendations to the governor, which shall contain a full description of program and project activity, including fund sources and expenditures for the biennium covered by the report. [1985 c 317 § 8; 1965 c 8 § 43.46.070. Prior: 1961 c 301 § 7.]

43.46.081 Poet laureate program. (1) The Washington state arts commission shall establish and administer the poet laureate program. The poet laureate shall engage in activities to promote and encourage poetry within the state, including but not limited to readings, workshops, lectures, or presentations for Washington educational institutions and

communities in geographically diverse areas over a two-year term.

(2) Selection of a poet laureate shall be made by a committee appointed and coordinated by the commission. The committee may include representatives of the Washington state library, the education community, the Washington commission for the humanities, publishing, and the community of Washington poets.

(3) The commission and the committee shall establish criteria to be used for the selection of a poet laureate. In addition to other criteria established, the poet laureate must be a published poet, a resident of Washington state, active in the poetry community, and willing and able to promote poetry in the state of Washington throughout the two-year term.

(4) The recommendation of the poet laureate selection committee shall be forwarded to the commission, which shall appoint the poet laureate with the approval of the governor.

(5) The poet laureate shall receive compensation at a level determined by the commission. Travel expenses shall be provided in accordance with RCW 43.03.050 and 43.03.060.

(6) The poet laureate may not serve more than two consecutive two-year terms.

(7) The commission shall fund the poet laureate program through gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise. [2007 c 128 § 2.]

Findings—2007 c 128: "The legislature wishes to recognize: (1) The value of poetry and the contribution Washington poets make to the culture of our state; (2) that poetry is a literary form respected and growing throughout all segments of Washington's population; (3) that awareness and appreciation of poetry encourages increased literacy and advanced communication skills; and (4) that Washington state has produced many excellent and nationally recognized poets." [2007 c 128 § 1.]

43.46.085 Poet laureate account. The poet laureate account is created in the custody of the state treasurer. All receipts from gifts, grants, or endowments from public or private sources must be deposited into the account. Expenditures from the account may only be used for the poet laureate program. Only the executive director of the commission or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2007 c 128 § 3.]

Findings—2007 c 128: See note following RCW 43.46.081.

43.46.090 Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established. The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of the state's artists by the establishment of the Washington state arts commission. The legislature declares it to be a policy of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be placed in public buildings or lands. There is hereby established a visual arts program to be administered by the Washington state arts commission. [2009 c 549 § 5134; 1983 c 204 § 1; 1974 ex.s. c 176 § 1.]

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

Colleges and universities, purchases of works of art—Procedure: RCW 28B.10.025.

Purchase of works of art—Procedure: RCW 43.19.455.

School districts, purchases of works of art—Procedure: RCW 28A.335.210.

Additional notes found at www.leg.wa.gov

43.46.095 State art collection. All works of art purchased and commissioned under the visual arts program shall become a part of a state art collection developed, administered, and operated by the Washington state arts commission. All works of art previously purchased or commissioned under RCW 43.46.090, 43.17.200, 43.19.455, 28B.10.025, or 28A.335.210 shall be considered a part of the state art collection to be administered by the Washington state arts commission. [1990 c 33 § 578; 1983 c 204 § 2.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.46.100 Creative districts—Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the Washington state arts commission.

(2) "Coordinator" means the employee of the Washington state arts commission who is responsible for performing the specific tasks under RCW 43.46.115.

(3) "Creative district" means a land area designated by a local government in accordance with RCW 43.46.105 that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.

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

(5) "State-certified creative district" means a creative district whose application for certification has been approved by the commission. [2017 c 240 § 2.]

Findings—Intent—2017 c 240: "(1) The legislature finds that:

(a) A creative district is a designated, geographical, mixed-use area of a community in which a high concentration of cultural facilities, creative businesses, or arts-related businesses serve as a collective anchor of public attraction;

(b) In certain cases, multiple vacant properties in close proximity may exist within a community that would be suitable for redevelopment as a creative district;

(c) Creative districts are a highly adaptable economic development tool that is able to take a community's unique conditions, assets, needs, and opportunities into account and thereby address the needs of large, small, rural, and urban areas;

(d) Creative districts may be home to both nonprofit and for-profit creative industries and organizations;

(e) The arts and culture transcend boundaries of race, age, gender, language, and social status; and

(f) Creative districts promote and improve communities in particular and the state more generally in many ways. Specifically, such districts:

(i) Attract artists and creative entrepreneurs to a community and thereby infuse the community with energy and innovation and enhance the economic and civic capital of the community;

(ii) Create a hub of economic activity that helps an area become an appealing place to live, visit, and conduct business, complements adjacent businesses, creates new economic opportunities and jobs in both the cultural sector and other local industries, and attracts new businesses and assists in the recruitment of employees;

(iii) Establish marketable tourism assets that highlight the distinct identity of communities, attract in-state, out-of-state, and international visitors, and become especially attractive destinations for cultural, recreational, and business travelers;

(iv) Revitalize and beautify neighborhoods, cities, and larger regions, reverse urban decay, promote the preservation of historic buildings, and facilitate a healthy mixture of business and residential activity that contributes to reduced vacancy rates and enhanced property values;

(v) Provide a focal point for celebrating and strengthening a community's unique cultural identity, providing communities with opportunities to highlight existing cultural amenities as well as mechanisms to recruit and establish new artists, creative industries, and organizations;

(vi) Provide artists with a creative area in which they can live and work, with living spaces that enable them to work in artistic fields and find affordable housing close to their place of employment; and

(vii) Enhance property values. Successful creative districts combine improvements to public spaces such as parks, waterfronts, and pedestrian corridors, alongside property development. The redevelopment of abandoned properties and historic sites and recruiting businesses to occupy vacant spaces can also contribute to reduced vacancy rates and enhanced property values.

(2) It is the intent of the legislature that the state provide leadership, technical support, and the infrastructure to local communities desirous of creating their own creative districts by, among other things, certifying districts, offering available incentives to encourage business development, exploring new incentives that are directly related to creative enterprises, facilitating local access to state assistance, enhancing the visibility of creative districts, providing technical assistance and planning help, ensuring broad and equitable program benefits, and fostering a supportive climate for the arts and culture, thereby contributing to the development of healthy communities across the state and improving the quality of life of the state's residents." [2017 c 240 § 1.]

43.46.105 Creative districts—Designation—Certification. (1) A local government may designate a creative district within its territorial boundaries subject to certification as a state-certified creative district by the commission. Two or more local governments may jointly apply for certification of a creative district that extends across a common boundary.

(2) In order to receive certification as a state-certified creative district, a creative district must:

(a) Be a geographically contiguous area;

(b) Be distinguished by physical, artistic, or cultural resources that play a vital role in the quality and life of a community, including its economic and cultural development;

(c) Be the site of a concentration of artistic or cultural activity, a major arts or cultural institution or facility, arts and entertainment businesses, an area with arts and cultural activities, or artistic or cultural production;

(d) Be engaged in the promotional, preservation, and educational aspects of the arts and culture of the community and contribute to the public through interpretive, educational, or recreational uses; and

(e) Satisfy any additional criteria required by the commission that in its discretion will further the purposes of RCW 43.46.100 through 43.46.115. Any additional eligibility criteria must be posted by the commission on its public website.

(3) The commission may grant certification to a creative district that does not qualify for certification under subsection (2) of this section if the land area proposed for certification contains multiple vacant properties in close proximity that would be suitable, as determined by the commission, for redevelopment as a creative district. [2017 c 240 § 3.]

Findings—Intent—2017 c 240: See note following RCW 43.46.100.

43.46.110 Creative districts—Applications for certification—Review—Approval, rejection, revocation—Additional powers of commission. (1) Subject to the availability of amounts appropriated for this specific purpose, the

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commission may create a process for review of applications submitted by local governments or federally recognized Indian tribes for certification of state-certified creative districts. The application must be submitted on a standard form developed and approved by the commission.

(2) After reviewing an application for certification, the commission must approve or reject the application or return it to the applicant with a request for changes or additional information. The commission may request that an applicant provide relevant information supporting an application. Rejected applicants may reapply at any time in coordination with program guidelines.

(3) Certification must be based upon the criteria specified in RCW 43.46.105.

(4) If the commission approves an application for certification, it must notify the applicant in writing and must specify the terms and conditions of the commission's approval, including the terms and conditions set forth in the application and as modified by written agreement between the applicant and the commission.

(5) Upon approval by the commission of an application for certification, a creative district becomes a state-certified creative district with all of the attendant benefits under RCW 43.46.100 through 43.46.115.

(6) The commission may revoke a certification previously granted for failure by a local government to comply with the requirements of this section or an agreement executed pursuant to this section.

(7) In addition to any powers explicitly granted to the commission under RCW 43.46.100 through 43.46.115, the commission is granted such additional powers as are necessary to carry out the purposes of RCW 43.46.100 through 43.46.115. Where authorized by law, such powers may include offering incentives to state-certified creative districts to encourage business development, exploring new incentives that are directly related to creative enterprises, facilitating local access to state economic development assistance, enhancing the visibility of state-certified creative districts, providing state-certified creative districts with technical assistance and planning aid, ensuring broad and equitable program benefits, and fostering a supportive climate for the arts and culture within the state.

(8) The creation of a district under this section may not be used to prohibit any particular business or the development of residential real property within the boundaries of the district or to impose a burden on the operation or use of any particular business or parcel of residential real property located within the boundaries of the district. [2017 c 240 § 4.]

Findings—Intent—2017 c 240: See note following RCW 43.46.100.

43.46.115 Creative districts—Coordinator. Subject to the availability of amounts appropriated for this specific purpose, the commission may appoint a coordinator. The coordinator must:

(1) Review applications for certification and make a recommendation to the commission for action;

(2) Administer and promote the application process for the certification of creative districts;

(3) With the approval of the commission, develop standards and policies for the certification of state-certified cre-

ative districts. Any approved standards and policies must be posted on the commission's public website;

(4) Require periodic written reports from any state-certified creative district for the purpose of reviewing the activities of the district, including the compliance of the district with the policies and standards developed under this section and with the conditions of an approved application for certification;

(5) Identify available public and private resources, including any applicable economic development incentives and other tools, that support and enhance the development and maintenance of creative districts and, with the assistance of the commission, ensure that such programs and services are accessible to creative districts; and

(6) With the approval of the commission, develop such additional procedures as may be necessary to administer this section. Any approved procedures must be posted on the commission's public website. [2017 c 240 § 5.]

Findings—Intent—2017 c 240: See note following RCW 43.46.100.

43.46.900 Effective date—1985 c 317. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985. [1985 c 317 § 10.]

Chapter 43.52 RCW OPERATING AGENCIES

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43.52.250 Definitions. As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Board of directors" means the board established under RCW 43.52.370.

"Executive board" means the board established under RCW 43.52.374.

"Board" means the board of directors of the joint operating agency unless the operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, in which case "board" means the executive board.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

"Revenue bonds or warrants" means bonds, notes, bond anticipation notes, warrants, certificates of indebtedness, commercial paper, refunding or renewal obligations, payable from a special fund or revenues of the utility properties operated by the joint operating agency.

"Electrical resources" means both electric energy and conservation.

"Electrical energy" means electric energy produced by any means including water power, steam power, nuclear power, and conservation.

"Conservation" means any reduction in electric power consumption as a result of increases in efficiency of energy use, production, or distribution. [1987 c 376 § 8; 1982 1st ex.s. c 43 § 1; 1981 1st ex.s. c 1 § 1; 1977 ex.s. c 184 § 1; 1965 c 8 § 43.52.250. Prior: 1953 c 281 § 1.]

Additional notes found at www.leg.wa.gov

43.52.260 Scope of authority. The authority granted in this chapter shall apply equally to the generating of electricity by water power, by steam power, by nuclear power, conservation, or by any other means whatsoever. [1987 c 376 § 9; 1977 ex.s. c 184 § 2; 1965 c 8 § 43.52.260. Prior: 1955 c 258 § 18; 1953 c 281 § 20.]

43.52.272 Power commission abolished. The Washington state power commission is hereby abolished. [1965 c 8 § 43.52.272. Prior: 1957 c 295 § 8.]

43.52.290 Members of the board of directors of an operating agency—Compensation—May hold other public position—Incompatibility of offices doctrine voided. Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day as compensation for each day or major part thereof devoted to the business of the operating agency, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he or she be such other public officer or employee, he or she shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. The common law doctrine of incompatibility of offices is hereby voided as it applies to persons sitting on the board of directors or the executive board of an operating agency and holding an elective or appointive position on a public utility district commission or municipal legislative authority or being an employee of a public utility district or municipality. [2009 c 549 § 5135; 1983 1st ex.s. c 3 § 1; 1982 1st ex.s. c 43 § 5; 1977 ex.s. c 184 § 3; 1965 c 8 § 43.52.290. Prior: 1953 c 281 § 4.]

Additional notes found at www.leg.wa.gov

43.52.300 Powers and duties of an operating agency. An operating agency formed under RCW 43.52.360 shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that an operating agency shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. An operating agency shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political subdivisions and agencies *of any state, of Canada, or of the United States, at fair and nondiscriminating rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the operating agency. When any revenue bonds or warrants are outstanding the operating agency shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the operating agency which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the operating agency is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the operating agency and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the operating agency.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the operating agency may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the operating agency shall determine. Such manager and employees shall

be appointed for an indefinite time and be removable at the will of the operating agency.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper. [1977 ex.s. c 184 § 4; 1975 1st ex.s. c 37 § 1; 1965 c 8 § 43.52.300. Prior: 1955 c 258 § 1; 1953 c 281 § 5.]

***Reviser's note:** The comma following "of any state" appears to have been inadvertently omitted from 1975 1st ex.s. c 37 § 1 and from subsequent publications of this section. The comma has been restored by the code reviser, beginning with the 2018 publication of this section.

43.52.3411 Revenue bonds or warrants. For the purposes provided for in this chapter, an operating agency shall have power to issue revenue bonds or warrants payable from the revenues of the utility properties operated by it. Whenever the board of a joint operating agency shall deem it advisable to issue bonds or warrants to engage in conservation activities or to construct or acquire any public utility or any works, plants or facilities or any additions or betterments thereto or extensions thereof it shall provide therefor by resolution, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof as near as may be. Such cost may include funds for working capital, for payment of expenses incurred in the conservation activities or the acquisition or construction of the utility and for the repayment of advances made to the operating agency by any public utility district or city. Except as otherwise provided in RCW 43.52.343, all the provisions of law as now or hereafter in effect relating to revenue bonds or warrants of public utility districts shall apply to revenue bonds or warrants issued by the joint operating agency including, without limitation, provisions relating to: The creation of special funds and the pledging of revenues thereto; the time and place of payment of such bonds or warrants and the interest rate or rates thereon; the covenants that may be contained therein and the effect thereof; the execution, issuance, sale, funding, or refunding, redemption and registration of such bonds or warrants; and the status thereof as negotiable instruments, as legal securities for deposits of public moneys and as legal investments for trustees and other fiduciaries and for savings and loan associations, banks and insurance companies doing business in this state. However, for revenue bonds or warrants issued by an operating agency, the provisions under RCW 54.24.030 relating to additional or alternate methods for payment may be made a part of the contract with the owners of any revenue bonds or warrants of an operating agency. The board may authorize the managing director or the treasurer of the operating agency to sell revenue bonds or warrants maturing one year or less from the date of issuance, and to fix the interest rate or rates on such revenue bonds or war-

rants with such restrictions as the board shall prescribe. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030. Such bonds and warrants may also be issued and sold in accordance with chapter 39.46 RCW. [1987 c 376 § 10; 1983 c 167 § 116; 1981 1st ex.s. c 1 § 2; 1965 c 8 § 43.52.3411. Prior: 1957 c 295 § 6.]

Additional notes found at www.leg.wa.gov

43.52.343 Revenue bonds or warrants—Sale by negotiation or advertisement and bid. All bonds issued by an operating agency shall be sold and delivered in such manner, at such rate or rates of interest and for such price or prices and at such time or times as the board shall deem in the best interests of the operating agency, whether by negotiation or to the highest and best bidder after such advertising for bids as the board of the operating agency may deem proper: PROVIDED, That the board may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it may deem most advantageous to its own interests. [1981 1st ex.s. c 1 § 3; 1965 c 8 § 43.52.343. Prior: 1957 c 295 § 7; 1955 c 258 § 10.]

Additional notes found at www.leg.wa.gov

43.52.350 Operating agencies to provide fishways, facilities and hatcheries—Contracts. An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of fish and wildlife finds necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged or destroyed by such dam or obstruction and an operating agency is further authorized to enter into contracts with the department of fish and wildlife to provide for the construction and/or operation of such fishways, facilities and hatcheries. [1994 c 264 § 24; 1988 c 36 § 18; 1977 ex.s. c 184 § 5; 1965 c 8 § 43.52.350. Prior: 1953 c 281 § 11.]

43.52.360 Operating agency—Formation—Additional projects—Appeals—Membership, withdrawal—Dissolution. Any two or more cities or public utility districts or combinations thereof may form an operating agency (herein sometimes called a joint operating agency) for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions thereof, for the generation and/or transmission of electric energy and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of the department of ecology (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power

houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of the department of ecology notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature, extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of the department of ecology not later than ten days after the date of last publication of such notice.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In the event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the formation of such operating agency has been filed by any other public utility which prior to and at the time of the filing of the application for such operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such project; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be construed to constitute a bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects or conservation activities in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. Prior to undertaking any new project for acquisition of an energy resource, a joint operating agency shall prepare a plan which details a least-cost approach for investment in energy resources. The plan shall include an analysis of the costs of developing conservation compared with costs of developing other energy resources

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and a strategy for implementation of the plan. The plan shall be presented to the energy and utilities committees of the senate and house of representatives for their review and comment. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of the department of ecology in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: PROVIDED, That all contractual obligations incurred while a member shall remain in full force and effect. An operating agency may be dissolved by the unanimous agreement of the members, and the members, after making provisions for the payment of all debts and obligations, shall thereupon hold the assets thereof as tenants in common. [1998 c 245 § 68; 1987 c 376 § 11; 1977 ex.s. c 184 § 6; 1965 c 8 § 43.52.360. Prior: 1957 c 295 § 1; 1955 c 258 § 3; 1953 c 281 § 12.]

Generation of electric energy by steam: RCW 43.21A.610 through 43.21A.642.

43.52.370 Operating agency board of directors—Members, appointment, vote, term, etc.—Rules—Proceedings—Limitation on powers and duties. (1) Except as provided in subsection (2) of this section, the management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from

its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: PROVIDED, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: PROVIDED, That the compensation to any member shall not exceed five thousand dollars in any year except for board members who are elected to serve on an executive board established under RCW 43.52.374.

(2) If an operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors shall include and are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, terminate, or decommission any power plants, works, and facilities except that once the board of directors has made a final decision regarding a nuclear power plant, the executive board established under RCW 43.52.374 shall have the authority to make all subsequent decisions regarding the plant and any of its components;

(b) Election of members to, removal from, and establishment of salaries for the elected members of the executive board under RCW 43.52.374(1)(a); and

(c) Selection and appointment of three outside directors as provided in RCW 43.52.374(1)(b).

All other powers and duties of the operating agency, including without limitation authority for all actions subsequent to final decisions by the board of directors, including but not limited to the authority to sell any power plant, works, and facilities are vested in the executive board established under RCW 43.52.374. [1983 1st ex.s. c 3 § 2; 1982 1st ex.s. c 43 § 2; 1981 1st ex.s. c 3 § 1; 1977 ex.s. c 184 § 7; 1965 c 8 § 43.52.370. Prior: 1957 c 295 § 2; 1953 c 281 § 13.]

Additional notes found at www.leg.wa.gov

43.52.374 Operating agency executive board—Members—Terms—Removal—Rules—Proceedings—Managing director—Civil immunities—Defense and indemnification. (1) With the exception of the powers and duties of the board of directors described in RCW 43.52.370(2), the management and control of an operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW is vested in an executive board established under this subsection and consisting of eleven members.

(a) Five members of the executive board shall be elected to four-year terms by the board of directors from among the members of the board of directors. The board of directors may provide by rule for the composition of the five members of the executive board elected from among the members of the board of directors so as to reflect the member public utility districts' and cities' participation in the joint operating agency's projects. Members elected to the executive board from the board of directors are ineligible for continued membership on the executive board if they cease to be members of the board of directors. The board of directors may also provide by rule for the removal of a member of the executive board, except for the outside directors. Members of the board of directors may be elected to serve successive terms on the executive board. Members elected to the executive board from the board of directors shall receive a salary from the operating agency at a rate set by the board of directors.

(b) Six members of the executive board shall be outside directors. Three shall be selected and appointed by the board of directors, and three shall be selected and appointed by the governor and confirmed by the senate. All outside directors shall:

(i) Serve four-year terms on the executive board. However, of the initial members of the executive board, the board of directors and the governor shall each appoint one outside director to serve a two-year term, one outside director to serve a three-year term, and one outside director to serve a four-year term. Thereafter, all outside directors shall be appointed for four-year terms. All outside directors are eligible for reappointment;

(ii) Receive travel expenses on the same basis as the five members elected from the board of directors. The outside directors shall also receive a salary from the operating agency as fixed by the governor;

(iii) Not be an officer or employee of, or in any way affiliated with, the Bonneville power administration or any electric utility conducting business in the states of Washington, Oregon, Idaho, or Montana;

(iv) Not be involved in the financial affairs of the operating agency as an underwriter or financial adviser of the operating agency or any of its members or any of the participants in any of the operating agency's plants; and

(v) Be representative of policymakers in business, finance, or science, or have expertise in the construction or management of such facilities as the operating agency is constructing or operating, or have expertise in the termination, disposition, or liquidation of corporate assets.

(c) The governor may remove outside directors from the executive board for incompetency, misconduct, or malfeasance in office in the same manner as state appointive officers under chapter 43.06 RCW. For purposes of this subsection, misconduct shall include, but not be limited to, nonfeasance and misfeasance.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state. Nothing in this chapter alters or destroys the status of an operating agency as a separate municipal corporation or makes the state liable in any way or to any extent for any pre-existing or future debt of the operating agency or any present or future claim against the agency.

(3) The eleven members of the executive board shall be selected with the objective of establishing an executive board which has the resources to effectively carry out its responsibilities. All members of the executive board shall conduct their business in a manner which in their judgment is in the interest of all ratepayers affected by the joint operating agency and its projects.

(4) The executive board shall elect from its members a chair, vice chair, and secretary, who shall serve at the pleasure of the executive board. The executive board shall adopt rules for the conduct of its meetings and the carrying out of its business. All proceedings shall be by motion or resolution and shall be recorded in the minute book, which shall be a public record. A majority of the executive board shall constitute a quorum for the transaction of business.

(5) With respect to any operating agency existing on April 20, 1982, to which the provisions of this section are applicable:

(a) The board of directors shall elect five members to the executive board no later than sixty days after April 20, 1982; and

(b) The board of directors and the governor shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than sixty days after April 20, 1982, and the powers and duties prescribed in this chapter shall devolve upon the executive board at that time.

(6) The executive board shall select and employ a managing director of the operating agency and may delegate to the managing director such authority for the management and control of the operating agency as the executive board deems appropriate. The managing director's employment is terminable at the will of the executive board.

(7) Members of the executive board shall be immune from civil liability for mistakes and errors of judgment in the good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion. This grant of immunity shall not be construed as modifying the liability of the operating agency.

The operating agency shall undertake the defense of and indemnify each executive board member made a party to any civil proceeding including any threatened, pending, or completed action, suit, or proceeding, whether civil, administrative, or investigative, by reason of the fact he or she is or was a member of the executive board, against judgments, penalties, fines, settlements, and reasonable expenses, actually incurred by him or her in connection with such proceeding if he or she had conducted himself or herself in good faith and reasonably believed his or her conduct to be in the best interest of the operating agency.

In addition members of the executive board who are utility employees shall not be fired, forced to resign, or demoted from their utility jobs for decisions they make while carrying out their duties as members of the executive board involving the exercise of judgment and discretion. [2009 c 549 § 5136; 1983 1st ex.s. c 3 § 3; 1982 1st ex.s. c 43 § 3; 1981 1st ex.s. c 3 § 2.]

Additional notes found at www.leg.wa.gov

43.52.375 Treasurer—Auditor—Powers and duties—Official bonds—Funds. (1) The board of each

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joint operating agency shall by resolution appoint a treasurer. The treasurer shall be the chief financial officer of the operating agency, who shall report at least annually to the board a detailed statement of the financial condition of the operating agency and of its financial operations for the preceding fiscal year. The treasurer shall advise the board on all matters affecting the financial condition of the operating agency. Before entering upon his or her duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he or she receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his or her duties. The amount of such bond may be decreased or increased from time to time as the board may by resolution direct.

(2) The board shall also appoint an auditor and may require him or her to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his or her duties. The auditor shall report directly to the board and be responsible to it for discharging his or her duties.

(3) The premiums on the bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

(4) All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by the treasurer only on checks or warrants issued by the auditor upon orders or vouchers approved by the board: PROVIDED, That the board by resolution may authorize the managing director or any other bonded officer or employee as legally permissible to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business, including expenses incurred by the board of directors, its executive committee, or the executive board in the performance of their duties. All moneys of the operating agency shall be deposited forthwith by the treasurer in such depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he or she shall place all money of the joint operating agency as the board by resolution or motion may direct.

(5) The board may adopt a policy for the payment of claims or other obligations of the operating agency, which are payable out of solvent funds, and may elect to pay such obligations by check or warrant. However, if the applicable fund is not solvent at the time payment is ordered, then no check may be issued and payment shall be by warrant. When checks are to be used, the board shall designate the qualified public depository upon which the checks are to be drawn as well as the officers required or authorized to sign the checks. For the purposes of this chapter, "warrant" includes checks where authorized by this subsection. [2009 c 173 § 1; 1982 1st ex.s. c 43 § 7; 1981 1st ex.s. c 3 § 3; 1965 c 8 § 43.52.375. Prior: 1957 c 295 § 4.]

Additional notes found at www.leg.wa.gov

[Title 43 RCW—page 371]

43.52.378 Executive board—Appointment of administrative auditor—Retention of firm for performance audits—Duties of auditor and firm—Reports. The executive board of any operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The executive board shall retain a qualified firm or firms to conduct performance audits which is in fact independent and does not have any interest, direct or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the executive board of the operating agency. The executive board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract amendments, project design and any other topics deemed desirable by the executive board. The executive board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the executive board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the executive board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive board shall prescribe to accomplish the purposes of this section.

Upon the concurrent request of the chairs of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis. [2009 c 549 § 5138; 1987 c 505 § 84; 1986 c 158 § 13; 1982 1st ex.s. c 43 § 8; 1981 1st ex.s. c 3 § 4; 1979 ex.s. c 220 § 1.]

Additional notes found at www.leg.wa.gov

43.52.380 Member's preference to buy energy—Apportionment—Surplus. Members shall have a preference right to the purchase of all electric energy generated by an operating agency. As between members, the amount of electric energy to which each shall be entitled shall be computed annually and shall be based on the same percentage as the purchases of such member bore to the total generation of the operating agency for the preceding year. Surplus electric energy, that is energy not contracted for by the members, may be sold to any public utility authorized by law to distribute

and sell electric energy. [1965 c 8 § 43.52.380. Prior: 1953 c 281 § 14.]

43.52.383 Compliance with open public meetings act. (1) The legislature intends that the business and deliberations of joint operating agencies conducted by their boards of directors, executive boards, committees and subcommittees be conducted openly and with opportunity for public input.

(2) The board of directors, executive board, and all committees or subcommittees thereof shall comply with the provisions of chapter 42.30 RCW, in order to assure adequate public input and awareness of decisions. [1983 1st ex.s. c 3 § 4.]

43.52.385 Best interest of ratepayers to determine interest of agency. For the purposes of this chapter, including but not limited to RCW 43.52.343, the best interests of all ratepayers affected by the joint operating agency and its projects shall determine the interest of the operating agency and its board. [1982 1st ex.s. c 43 § 9.]

Additional notes found at www.leg.wa.gov

43.52.391 Powers and duties of operating agency. Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create subdistricts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale or disposal of coal that it deems proper.

Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the

agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues or from any other funds of the agency, together with interest not to exceed the maximum specified in RCW 43.52.395(1). The legislative body of any member may authorize and make such advances or contributions to an operating agency to assist in a plan for termination of a project or projects, whether or not such member is a participant in such project or projects. Any member who makes such advances or contributions for terminating a project or projects in which it is not a participant shall not assume any liability for any debts or obligations related to the terminated project or projects on account of such advance or contribution. [1982 c 1 § 1; 1977 ex.s. c 184 § 8; 1965 c 8 § 43.52.391. Prior: 1957 c 295 § 5.]

Liability to other taxing districts for increased financial burdens: Chapter 54.36 RCW.

Additional notes found at www.leg.wa.gov

43.52.395 Maximum interest rate operating agency may pay member. (1) The maximum rate at which an operating agency shall add interest in repaying a member under RCW 43.52.391 may not exceed the higher of fifteen percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month.

(2) The maximum rate specified in subsection (1) of this section is applicable to all advances and contributions made by each member to the agency prior to January 21, 1982, and to all renewals of such advances and contributions. [1989 c 14 § 4; 1982 c 1 § 2.]

Additional notes found at www.leg.wa.gov

43.52.410 Authority of city or district to contract for electric energy or falling waters. Any city or district is authorized to enter into contracts or compacts with any operating agency or a publicly or privately owned public utility for the purchase and sale of electric energy or falling waters: PROVIDED, That no city or district may enter into a contract or compact with an operating agency to purchase electric energy, or to purchase or participate in a portion of an electrical generating project, that commits the city or district to pay an amount in excess of an express dollar amount or in excess of an express rate per unit of electrical energy received. [1983 c 308 § 1; 1977 ex.s. c 184 § 9; 1965 c 8 § 43.52.410. Prior: 1953 c 281 § 17.]

43.52.430 Appeals from director of department of ecology. Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the appeal shall be at issue. The appeal shall be heard

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and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. Appellate review of the superior court's decision may be sought as in other civil cases. [1988 c 202 § 44; 1977 ex.s. c 184 § 10; 1971 c 81 § 113; 1965 c 8 § 43.52.430. Prior: 1953 c 281 § 19.]

Additional notes found at www.leg.wa.gov

43.52.440 Effect of chapter on "Columbia River Sanctuary Act." Nothing contained in this chapter shall be construed to amend, modify or repeal in any manner *RCW 77.55.160, commonly known as the "Columbia River Sanctuary Act", and all matter herein contained shall be expressly subject to such act. [2003 c 39 § 26; 1983 1st ex.s. c 46 § 178; 1965 c 8 § 43.52.440. Prior: 1953 c 281 § 23.]

*Reviser's note: RCW 77.55.160 was recodified as RCW 77.55.191 pursuant to 2005 c 146 § 1001.

43.52.450 Chapter requirements are cumulative—Preservation of rights—Not subject to utilities and transportation commission. The provisions of this chapter shall be cumulative and shall not impair or supersede the powers or rights of any person, firm or corporation or political subdivision of the state of Washington under any other law. The rights of all persons, firms, corporations and political subdivisions or operating units of any kind under existing contracts, renewals thereof or supplements thereto, with the United States, or any agency thereof, for power, are hereby preserved and such rights shall not be impaired or modified by any of the provisions of this chapter or any of the powers granted by this chapter.

The rates, services and practices of any operating agency in respect to the power generated, transmitted or sold by it shall not be governed by the regulations of the utilities and transportation commission. [1977 ex.s. c 184 § 11; 1965 c 8 § 43.52.450. Prior: 1953 c 281 § 10.]

43.52.460 Operating agency to pay in lieu of taxes. Any joint operating agency formed under this chapter shall pay in lieu of taxes payments in the same amounts as paid by public utility districts. Such payments shall be distributed in accordance with the provisions applicable to public utility districts. [2005 c 443 § 3; 1971 ex.s. c 75 § 1; 1965 c 8 § 43.52.460. Prior: 1957 c 295 § 10.]

Finding—Intent—Effective date—2005 c 443: See notes following RCW 82.08.0255.

43.52.470 Operating agency—Validity of organization and existence. Except as provided in RCW 43.52.360, the validity of the organization of any joint operating agency can be questioned only by action instituted within six months from the date that the joint operating agency is created. If the validity of the existence of any joint operating agency is not challenged within that period, by the filing and service of a petition or complaint in the action, the state shall be barred forever from questioning the validity of the joint operating agency by reason of any defect claimed to exist in the organization thereof, and it shall be deemed validly organized for all purposes. Any joint operating agency heretofore (March 26, 1957) attempted to be organized pursuant to chapter 43.52 RCW and which has maintained its existence since the

date of such attempted organization, is hereby declared legal and valid and its organization and creation are validated and confirmed. [1965 c 8 § 43.52.470. Prior: 1957 c 295 § 11.]

43.52.515 Application of Titles 9 and 9A RCW. All of the provisions of Titles 9 and 9A RCW apply to actions of a joint operating agency. [1981 c 173 § 6.]

Additional notes found at www.leg.wa.gov

43.52.520 Security force—Authorized. An operating agency constructing or operating a nuclear power plant under a site certificate issued under chapter 80.50 RCW may establish a security force for the protection and security of each nuclear power plant site exclusion area. Members of the security force may be supplied with uniforms and badges indicating their position as security force members if the uniforms and badges do not closely resemble the uniforms or badges of any law enforcement agency or other agency possessing law enforcement powers in the surrounding area of the nuclear power plant exclusion area. Members of the security force shall enroll in and successfully complete a training program approved by the criminal justice training commission which does not conflict with any requirements of the United States nuclear regulatory commission for the training of security personnel at nuclear power plants. All costs incurred by the criminal justice training commission in the preparation, delivery, or certification of the training programs shall be paid by the operating agency. [1981 c 301 § 1.]

43.52.525 Security force—Criminal history record information. An operating agency is authorized to obtain criminal history record information pursuant to RCW 10.97.050 for any member of an operating agency security force and for any applicant seeking employment as a member of an operating agency security force. [1981 c 301 § 2.]

43.52.530 Security force—Powers and duties—Rules on speed, operation, location of vehicles authorized. (1) Members of an operating agency security force authorized under RCW 43.52.520 may use reasonable force to detain, search, or remove persons who enter or remain without permission within the nuclear power plant site exclusion area or whenever, upon probable cause, it appears to a member of the security force that a person has committed or is attempting to commit a crime. Should any person be detained, the security force shall immediately notify the law enforcement agency, having jurisdiction over the nuclear power plant site, of the detainment. The security force is authorized to detain the person for a reasonable time until custody can be transferred to a law enforcement officer. Members of a security force may use that force necessary in the protection of persons and properties located within the confines of the nuclear power plant site exclusion area.

(2) An operating agency may adopt and enforce rules controlling the speed, operation, and location of vehicles on property owned or occupied by the operating agency. Such rules shall be conspicuously posted and persons violating the rules may be expelled or detained.

(3) The rights granted in subsection (1) of this section are in addition to any others that may exist by law including, but

not limited to, the rights granted in RCW 9A.16.020(4). [1981 c 301 § 3.]

43.52.535 Security force—Membership in retirement system authorized. Members of the operating agency security force shall be members of the retirement system under chapter 41.40 RCW. [1981 c 301 § 4.]

43.52.550 Plans for repayment of operating agency obligations maturing prior to planned operation of plant. Any municipal corporation, cooperative or mutual which has entered into a contract with an operating agency to participate in the construction or acquisition of an energy plant as defined in chapter 80.50 RCW shall annually adopt a plan for the repayment of its contractual share of any operating agency obligation which matures prior to the planned operation of the plant. The manner of adoption of the plan shall be subject to the laws regarding approval of rates of the municipal corporation, cooperative or mutual.

The plan shall include the effect of the means of repayment on its financial condition, its customers' rates, its other contractual rights and obligations, and any other matter deemed useful by the participant.

Each such participating municipal corporation, cooperative or mutual shall include a statement of the extent of its contractual obligation to any operating agency in an annual financial report. [1981 1st ex.s. c 1 § 4.]

Additional notes found at www.leg.wa.gov

43.52.560 Contracts for materials or work required—Sealed bids. Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment, or supplies, the estimated cost of which is more than fifteen thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is more than twenty-five thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts. [2015 c 73 § 1; 2004 c 189 § 1; 1998 c 245 § 69; 1987 c 376 § 1.]

43.52.565 Contracts for materials or work through competitive negotiation—Nuclear generating projects and associated facilities. (1) An operating agency may enter into contracts through competitive negotiation under subsection (2) of this section for materials, equipment, supplies, or work to be performed during commercial operation of a nuclear generating project and associated facilities (a) to replace a defaulted contract or a contract terminated in whole or in part, or (b) where consideration of factors in addition to price, such as technical knowledge, experience, management, staff, or schedule, is necessary to achieve economical operation of the project, provided that the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The selection of a contractor shall be made in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met.

Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the operating agency shall specify at a preproposal conference the contract requirements in the request for proposal, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) The operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the operating agency and the state taking into consideration the requirements set forth in the request for proposals. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency. [1998 c 245 § 70; 1994 c 27 § 1; 1987 c 376 § 2.]

43.52.567 Contracts for materials or work through competitive negotiation—Renewable electrical energy generation projects.

(1) A joint operating agency with an executive board formed under RCW 43.52.374 may enter into contracts through competitive negotiation under subsection (3) of this section for materials, equipment, supplies, or work to be performed in support of siting, constructing, developing, or deploying a renewable electrical energy generation project, if the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Professional competence" means the totality of demonstrated experience, knowledge, skills, proficiency, and abilities required to successfully perform the contract.

(b) "Qualified hydropower" means the energy produced either: (i) As a result of modernizations or upgrades made after June 1, 1998, to hydropower facilities operating on May 8, 2001, that have been demonstrated to reduce the mortality of anadromous fish; or (ii) by run of the river or run of the canal hydropower facilities that are not responsible for obstructing the passage of anadromous fish.

(c) "Renewable electrical energy generation project" means electrical generation facilities that are fueled by: (i) Wind; (ii) solar energy; (iii) geothermal energy; (iv) landfill gas; (v) wave or tidal action; (vi) gas produced during the treatment of wastewater; (vii) qualified hydropower; or (viii) biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(d) "Responsible offerors" means offerors who possess necessary management and financial resources, experience, organization, and the ability, capacity, and skill to successfully perform the contract.

(3) The selection of a contractor shall be made in an open public meeting, as part of a public record, and in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met. Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the joint operating agency shall specify at a preproposal conference specific contract requirements, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) The joint operating agency shall execute a contract with the responsible offeror whose proposal is determined in

writing to be the most advantageous to the joint operating agency and the state taking into consideration the requirements set forth in the request for proposals. The contract file shall contain the basis on which the successful offeror is selected. The joint operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The joint operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency. [2006 c 176 § 1.]

43.52.570 Purchase of materials by telephone or written quotation authorized—Procedure. For the awarding of a contract to purchase any item or items of materials, equipment, or supplies in an amount exceeding five thousand dollars but less than seventy-five thousand dollars, exclusive of sales tax, the managing director or a designee may, in lieu of sealed bids, secure telephone and/or written quotations from at least five vendors, where practical, and award contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. The agency shall establish a procurement roster, which shall consist of suppliers and manufacturers who may supply materials or equipment to the operating agency, and shall provide for solicitations which will equitably distribute opportunity for bids among suppliers and manufacturers on the roster. Immediately after the award is made, the bid quotations obtained shall be recorded and shall be posted or otherwise made available for public inspection and copying pursuant to chapter 42.56 RCW at the office of the operating agency or any other officially designated location. Waiver of the deposit or bid bond required for sealed bids may be authorized by the operating agency in securing the bid quotations. [2005 c 274 § 299; 1987 c 376 § 3.]

43.52.575 Purchase of materials without competition authorized. When the managing director or a designee determines in writing that it is impracticable to secure competition for required materials, equipment, or supplies, he or she may purchase the materials, equipment, or supplies without competition. The term "impracticable to secure competition" means:

(1) When material, equipment, or supplies can be obtained from only one person or firm (single source of supply); or

(2) When specially designed parts or components are being procured as replacement parts in support of equipment specially designed by the manufacturer. [1987 c 376 § 4.]

43.52.580 Emergency purchase of materials or work by contract. When the managing director or a designee determines in writing that an emergency endangers the public safety or threatens property damage or that serious financial injury would result if materials, supplies, equipment, or work are not obtained by a certain time, and they cannot be contracted for by that time by means of sealed bids, the managing director or a designee may purchase materials, equipment, or supplies or may order work by contract in any amount necessary, after having taken precautions to secure a responsive

proposal at the lowest price practicable under the circumstances.

For the purposes of this section the term "serious financial injury" means that the costs attributable to the delay caused by contracting by sealed bids exceed the cost of materials, supplies, equipment, or work to be obtained. [1987 c 376 § 5.]

43.52.585 Procedures for implementing RCW 43.52.560 through 43.52.580. The executive board shall establish procedures for implementing RCW 43.52.560 through 43.52.580 by operating agency resolution after notice, public hearing, and opportunity for public comment. The procedures shall be established within six months after July 26, 1987. [1987 c 376 § 6.]

43.52.590 Construction of RCW 43.52.560 through 43.52.585. Nothing in RCW 43.52.560 through 43.52.585 requires reapplication by a joint operating agency in existence on July 26, 1987. [1987 c 376 § 7.]

43.52.595 Contracts for electric power and energy. A city or district may contract to purchase from an operating agency electric power and energy required for its present or future requirements. For projects the output of which is limited to qualified alternative energy resources as defined by RCW 19.29A.090(3), the contract may include the purchase of capability of the projects to produce electricity in addition to the actual output of the projects. The contract may provide that the city or district must make the payments required by the contract whether or not a project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for. The contract may also provide that payments under the contract are not subject to reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the operating agency or a city or district under the contract or other instrument. [2003 c 138 § 1.]

43.52.612 Contract bid form. A joint operating agency shall require that bids upon any construction or improvement of any nuclear generating project and associated facilities shall be made upon the contract bid form supplied by the operating agency, and in no other manner. The operating agency may, before furnishing any person, firm, or corporation desiring to bid upon any work with a contract bid form, require from the person, firm, or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of the person, firm, or corporation in performing work. The questionnaire shall be sworn to before a notary public or other person authorized to take acknowledgment of deeds and shall be submitted once a year or at such other times as the operating agency may require. Whenever the operating agency is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement or whenever the operating agency determines that the person, firm, or corporation does not meet all of the requirements set forth in this section, it may refuse to furnish the person, firm, or corporation with a contract bid

form and any bid of the person, firm, or corporation must be disregarded. The operating agency shall require that a person, firm, or corporation have all of the following requirements in order to obtain a contract form:

(1) Adequate financial resources, the ability to secure these resources, or the capability to secure a one hundred percent payment and performance bond;

(2) The necessary experience, organization, and technical qualifications to perform the proposed contract;

(3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;

(4) A satisfactory record of performance, integrity, judgment, and skills; and

(5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The refusal shall be conclusive unless appealed to the superior court of the county where the operating agency is situated or Thurston county within fifteen days, which appeal shall be heard summarily within ten days after the appeal is made and on five days' notice thereof to the operating agency.

The prevailing party in such litigation shall be awarded its attorney fees and costs.

The operating agency shall not be required to make available for public inspection or copying under chapter 42.56 RCW financial information provided under this section. [2005 c 274 § 300; 1982 1st ex.s. c 44 § 5.]

Additional notes found at www.leg.wa.gov

43.52.910 Construction—1965 c 8. This chapter shall be liberally construed to effectuate its purposes. [1965 c 8 § 43.52.910. Prior: 1957 c 295 § 12.]

Chapter 43.52A RCW ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL—STATE'S MEMBERS

Sections

- 43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council.
43.52A.020 Definitions.
43.52A.030 Appointment of members.
43.52A.040 Terms of members—Vacancies—Residence of members.
43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses.

43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council. The state of Washington agrees to participate in the Pacific Northwest Electric Power and Conservation Planning Council pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. [1981 c 14 § 1.]

43.52A.020 Definitions. As used in this chapter:

(1) The term "the act" means the Pacific Northwest Electric Power Planning and Conservation Act.

(2) The term "council" means the Pacific Northwest Electric Power and Conservation Planning Council. [1981 c 14 § 2.]

43.52A.030 Appointment of members. The governor, with the consent of the senate, shall appoint two residents of

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Washington state to the council pursuant to the act. These persons shall undertake the functions and duties of members of the council as specified in the act and in appropriate state law. Upon appointment by the governor to the council, the nominee shall make available to the senate such disclosure information as is requested for the confirmation process, including that required in RCW 42.17A.710. [2011 c 60 § 36; 1984 c 34 § 8; 1981 c 14 § 3.]

Additional notes found at www.leg.wa.gov

43.52A.040 Terms of members—Vacancies—Residence of members. (1) Unless removed at the governor's pleasure, councilmembers shall serve a term ending January 15 of the third year following appointment except that, with respect to members initially appointed, the governor shall designate one member to serve a term ending January 15 of the second year following appointment. Initial appointments to the council shall be made within thirty days of March 9, 1981.

(2) Each member shall serve until a successor is appointed, but if a successor is not appointed within sixty days of the beginning of a new term, the member shall be considered reappointed, subject to the consent of the senate.

(3) A vacancy on the council shall be filled for the unexpired term by the governor, with the consent of the senate.

(4) For the first available appointment and at all times thereafter, one member of Washington's delegation to the council shall reside east of the crest of the Cascade Mountains and one member shall reside west of the crest of the Cascade Mountains, except as follows: Both members may reside on the same side of the Cascade Mountains as long as this deviation does not exceed 12 months in any 10-year period. [2021 c 316 § 43; 1984 c 223 § 1; 1981 c 14 § 4.]

Short title—2021 c 316: See RCW 70A.65.900.

43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses. (1) Councilmembers shall spend sufficient time on council activities to fully represent the state of Washington in carrying out the purposes of the act.

(2) State agencies shall provide technical assistance to councilmembers upon request. The councilmembers shall request that the council request the administrator of the Bonneville Power Administration to reimburse the state for the expenses associated with such assistance as provided in the act.

(3) The members of the council shall maintain liaison with the governor or his or her designees and the committees on energy and utilities, or their successor entities, of the senate and house of representatives.

(4) The members of the council shall submit to the governor and legislature an annual report describing the activities and plans of the council.

(5) Each member of the council shall receive compensation to be determined by the governor and applicable federal law and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, as now or hereafter amended. [2009 c 549 § 5139; 1981 c 14 § 5.]

Chapter 43.56 RCW
UNIFORM LAW COMMISSION
 (Formerly: Uniform legislation commission)

Sections

43.56.010	Appointment of qualified persons.
43.56.020	Duties of commission.
43.56.040	Travel expenses of members.
43.56.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

43.56.010 Appointment of qualified persons. (1) The governor shall appoint three qualified persons to serve on the Washington state uniform law commission for the promotion of uniformity of legislation in the United States. A qualified person is a resident of the state of Washington and a member of the state bar association of this or another state, who is or has been a judge, law professor, legislator, or practicing attorney.

(2) In addition to the members of the commission appointed pursuant to subsection (1) of this section, the governor may appoint to the commission any person who has served at least twenty years on the commission and who is a life member in the national conference of commissioners on uniform state laws or its successor.

(3) In addition to the members of the commission appointed pursuant to subsections (1) and (2) of this section, the code reviser shall serve as a member of the commission. [2009 c 218 § 1; 1965 c 8 § 43.56.010. Prior: 1905 c 59 § 1; RRS § 8204.]

43.56.020 Duties of commission. (1) The commission shall identify areas of the law in which (a) uniformity in the laws among the states and other jurisdictions is desirable and practicable and (b)(i) the congress of the United States lacks jurisdiction to act or (ii) it is preferable that the several states enact the laws.

(2) The commissioners, at the national conference of commissioners on uniform state laws or its successor, shall confer upon these matters with the commissioners appointed by other states for the same purpose and shall consider and draft uniform laws to be submitted for approval and adoption by the several states.

(3) The commission shall propose to the legislature for approval and adoption the uniform acts developed with the other commissioners and generally devise and recommend such other and further courses of action as shall accomplish such uniformity. [2009 c 218 § 2; 1965 c 8 § 43.56.020. Prior: 1905 c 59 § 2; RRS § 8205.]

43.56.040 Travel expenses of members. No member of the commission shall receive any compensation for services, but each member shall be paid travel expenses incurred in the discharge of official duty in accordance with RCW 43.03.050 and 43.03.060, after the account thereof has been audited by the commission.

The commission shall keep a full account of its expenditures and shall report it in each report. The commission shall allow expenses for only one meeting of the commission within this state each year, and shall allow expenses for the members to attend, no more than once in each year, any conference of the national conference of commissioners on uniform state laws, or its successor, outside of this state. [2009

c 218 § 3; 1975-'76 2nd ex.s. c 34 § 118; 1965 c 8 § 43.56.040. Prior: 1955 c 91 § 1; 1905 c 59 § 4; RRS § 8207.]

Additional notes found at www.leg.wa.gov

43.56.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 108.]

Chapter 43.58 RCW

WASHINGTON-OREGON BOUNDARY COMMISSION

Sections

43.58.050	Oregon-Washington Columbia River boundary compact—Ratification.
43.58.060	Oregon-Washington Columbia River boundary compact—Terms and provisions.
43.58.070	Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division of archives.
43.58.090	Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when.

43.58.050 Oregon-Washington Columbia River boundary compact—Ratification. The interstate compact determining the Oregon-Washington boundary on the Columbia River which was executed on the 21st day of December, 1956 by the Oregon commission on interstate cooperation for the state of Oregon and the Washington-Oregon boundary commission for the state of Washington is hereby ratified and approved. [1965 c 8 § 43.58.050. Prior: 1957 c 90 § 1.]

Reviser's note: The effective date of RCW 43.58.050 was March 13, 1957. State Constitution, Amendment 33, recognizing the modification of the state's boundaries through appropriate compact procedure, was approved by the voters on November 4th, 1958, and the governor's proclamation relating thereto was issued on December 4th, 1958.

The Oregon legislature has ratified the compact, see Oregon Revised Statutes §§ 186.510 and 186.520, effective April 4, 1957. See also, Article XVI of the Oregon Constitution relating to state boundaries which was adopted by the people November 4, 1958, effective December 3, 1958.

Congressional ratification is contained in Public Law 85-575, dated July 31, 1958.

43.58.060 Oregon-Washington Columbia River boundary compact—Terms and provisions. The terms and provisions of the compact referred to in RCW 43.58.050 are as follows:

INTERSTATE COMPACT DETERMINING
OREGON-WASHINGTON BOUNDARY ON THE
COLUMBIA RIVER

ARTICLE I. PURPOSE

The boundary between the states of Oregon and Washington along the course of the Columbia River has not been easy to ascertain because of changes in the main channel of the river with a result that a state of confusion and dispute exists and the enforcement and administration of the laws of the two states has been rendered difficult.

The purpose of this compact is to fix with precision by reference to stations of longitude and latitude the boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the most easterly point at which the 46th parallel of North latitude crosses said river, at which point the river ceases to form the boundary between the two states.

ARTICLE II. DESCRIPTION

The boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the point at which the last described point number (# 191) of the boundary as herein determined meets the 46th parallel of North latitude at 118° 59'10".12 of West longitude shall be as follows:

Beginning one marine league at sea off the mouth of the Columbia river at north latitude 46° 15'00".00; running thence due east to point number 1 of this description, which point is at north latitude 46° 15'00".00, west longitude 124° 05'00".00; thence from point number 1 continuing upstream in the channel of the Columbia river by a series of straight lines connecting the following numbered and described points in consecutive order.

Point Number	North Latitude	West Longitude	Description of Location
25	46°10'00".00	123°13'51".20	
26	46°11'20".80	123°09'55".50	
27	46°11'11".30	123°07'10".90	
28	46°09'40".00	123°04'23".50	
29	46°09'24".00	123°03'22".40	
30	46°08'38".40	123°02'00".00	
31	46°08'06".00	123°00'16".00	
32	46°06'20".02	122°57'44".28	
33	46°06'17".36	122°57'38".295	a point on the center line of the Longview Bridge at center of main span
34	46°06'14".71	122°57'32".31	
35	46°05'02".70	122°54'11".00	
36	46°03'37".50	122°52'59".50	
37	46°01'53".50	122°52'35".50	
38	46°00'52".25	122°51'17".20	
39	45°58'52".00	122°50'11".80	
40	45°57'40".00	122°48'46".80	
41	45°55'57".00	122°48'18".00	
42	45°54'47".00	122°48'36".75	
43	45°53'05".00	122°47'48".30	
44	45°52'06".00	122°47'01".50	
45	45°50'40".00	122°47'04".50	
46	45°49'31".20	122°47'41".00	
47	45°48'37".00	122°47'40".00	
48	45°46'51".00	122°46'06".30	
49	45°45'34".20	122°45'37".00	
50	45°44'04".70	122°45'32".00	
51	45°42'05".00	122°46'16".00	
52	45°40'50".80	122°46'24".00	
53	45°39'26".75	122°45'46".00	
54	45°38'40".00	122°44'13".00	
55	45°38'17".00	122°42'47".50	
56	45°37'35".37	122°41'35".14	
57	45°37'29".47	122°41'23".855	a point on the center line of Northern Pacific Railroad Bridge across Columbia River, which point is at center of 3rd pier south of the draw span
58	45°37'26".52	122°41'18".215	
59	45°37'07".85	122°40'33".42	
60	45°37'05".938	122°40'26".939	a point on the center line of the west highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge
61	45°37'05".62	122°40'25".86	a point on the center line of the east highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south
1	46°15'00".00	124°05'00".00	
2	46°15'51".00	124°02'02".75	
3	46°16'17".00	124°01'45".80	
4	46°16'59".50	124°02'14".40	
5	46°17'28".00	124°02'07".00	
6	46°17'33".25	124°01'12".25	
7	46°16'41".50	124°00'00".00	
8	46°16'03".00	123°58'11".80	
9	46°14'19".80	123°55'42".00	
10	46°14'06".00	123°52'14".50	
11	46°16'09".50	123°44'20".50	
12	46°15'01".00	123°41'12".70	
13	46°15'33".30	123°38'52".80	
14	46°15'23".90	123°35'05".00	
15	46°15'38".00	123°32'23".00	
16	46°16'14".60	123°30'00".00	
17	46°15'46".70	123°27'51".40	
18	46°14'23".50	123°25'51".60	
19	46°13'10".50	123°25'20".50	
20	46°11'29".00	123°25'43".60	
21	46°10'47".80	123°25'38".00	
22	46°09'01".00	123°23'21".50	
23	46°08'33".00	123°18'45".60	
24	46°09'04".50	123°15'47".20	

Point Number	North Latitude	West Longitude	Description of Location	Point Number	North Latitude	West Longitude	Description of Location
			from the center of pier No. 6 of said bridge	108	45°43'07".02	121°29'36".615	a point on the center line of the Hood River Bridge at the center of the draw span of said bridge
62	45°37'03".71	122°40'19".38		109	45°43'04".075	121°29'30".96	
63	45°36'34".00	122°38'27".00		110	45°42'05".20	121°27'41".80	
64	45°36'29".80	122°36'21".30		111	45°41'39".25	121°25'22".00	
65	45°36'20".00	122°35'20".00		112	45°41'35".00	121°24'02".00	
66	45°35'47".90	122°32'48".00		113	45°42'11".50	121°22'17".00	
67	45°35'23".50	122°31'24".20		114	45°42'18".00	121°20'11".50	
68	45°35'01".00	122°29'30".00		115	45°42'00".00	121°18'40".00	
69	45°34'42".80	122°28'20".50		116	45°41'13".30	121°17'10".00	
70	45°34'03".00	122°27'09".30		117	45°40'40".50	121°14'52".00	
71	45°33'49".00	122°26'15".80		118	45°40'17".00	121°12'52".50	
72	45°34'03".30	122°24'36".50		119	45°39'00".00	121°11'57".00	
73	45°34'29".50	122°23'25".80		120	45°37'47".00	121°11'38".40	
74	45°34'33".40	122°22'44".00		121	45°37'00".25	121°11'43".00	
75	45°34'10".00	122°21'04".00		122	45°36'23".80	121°10'57".00	
76	45°32'55".20	122°19'49".00		123	45°36'22".50	121°10'00".00	
77	45°32'38".00	122°17'43".70		124	45°36'29".175	121°08'39".84	
78	45°32'38".80	122°15'56".70		125	45°36'40".89	121°08'22".135	a point on the center line of the Dallas Bridge across the Columbia River at the center of the main span of said bridge
79	45°33'03".25	122°14'24".50		126	45°36'43".94	121°08'17".53	
80	45°33'55".00	122°11'58".50		127	45°36'35".69	121°07'50".34	
81	45°34'37".00	122°10'54".00		128	45°36'58".44	121°07'16".41	
82	45°35'03".00	122°08'25".50		129	45°37'06".095	121°06'57".58	
83	45°34'53".40	122°06'40".00		130	45°37'14".85	121°07'02".75	a point on the axis of the Dalles Dam at Station 48+79 of the center line survey of said dam
84	45°35'00".00	122°06'02".00		131	45°37'23".97	121°07'08".14	
85	45°36'35".00	122°02'35".00		132	45°38'53".13	121°05'01".25	
86	45°36'53".80	122°01'11".50		133	45°39'09".54	121°03'47".80	
87	45°36'58".00	122°00'08".50		134	45°39'04".04	121°01'57".51	
88	45°37'23".00	121°58'54".50		135	45°39'12".08	121°00'22".28	
89	45°37'59".00	121°57'42".80		136	45°38'54".66	120°58'56".33	
90	45°38'37".50	121°57'16".50		137	45°38'55".91	120°58'49".52	a point on the center line of the Oregon Trunk Railroad Bridge and in the center of the 4th pier from the north end of said bridge
91	45°38'42".00	121°57'01".80		138	45°38'58".405	120°58'35".90	
92	45°38'40".35	121°56'37".34		139	45°39'24".84	120°57'06".97	
93	45°38'40".13	121°56'22".57	a point at the intersection of the axis of Bonneville Dam and the center line of center pier of the spillway of said dam	140	45°39'23".58	120°56'34".22	
94	45°38'39".82	121°56'01".46		141	45°38'24".54	120°54'44".75	
95	45°39'17".00	121°54'25".00		142	45°38'35".09	120°53'40".72	
96	45°39'43".85	121°53'58".48	a point on center line of bridge at Cascade Locks, known as "The Bridge of the Gods" and in the center of the main span of said bridge	143	45°40'18".79	120°51'15".26	
97	45°39'44".81	121°53'58".16		144	45°41'11".69	120°47'14".64	
98	45°39'45".77	121°53'57".84		145	45°42'19".71	120°43'38".83	
99	45°40'15".00	121°54'02".00		146	45°42'42".58	120°42'10".70	
100	45°41'36".80	121°51'57".00		147	45°42'57".18	120°41'18".11	
101	45°42'24".75	121°48'36".00		148	45°43'48".14	120°40'05".19	
102	45°41'39".00	121°44'02".00		149	45°44'45".12	120°38'01".97	
103	45°41'42".00	121°42'22".00		150	45°44'47".00	120°37'17".91	
104	45°42'19".00	121°40'02".00		151	45°44'47".99	120°35'23".91	
105	45°42'17".50	121°37'48".50					
106	45°43'36".00	121°31'54".30					
107	45°43'15".275	121°29'52".445					

Point Number	North Latitude	West Longitude	Description of Location
152	45°44'18".49	120°33'29".23	
153	45°42'37".59	120°31'17".65	
154	45°42'00".37	120°30'16".48	
155	45°41'40".42	120°28'53".22	
156	45°41'58".55	120°24'08".96	
157	45°42'41".66	120°19'30".62	
158	45°43'16".74	120°16'56".18	
159	45°43'33".84	120°12'34".62	
160	45°45'43".67	120°10'10".01	
161	45°46'24".09	120°08'25".17	
162	45°47'07".10	120°04'08".70	
163	45°48'26".17	120°00'49".27	
164	45°49'28".29	119°57'52".64	
165	45°49'41".97	119°54'21".95	
166	45°50'25".18	119°50'53".51	
167	45°50'52".00	119°48'05".62	
168	45°50'45".15	119°46'18".16	
169	45°51'25".40	119°40'07".80	
170	45°54'20".70	119°37'20".96	
171	45°55'10".82	119°35'58".28	
172	45°55'32".25	119°34'13".67	
173	45°54'31".37	119°31'24".18	
174	45°54'23".43	119°29'13".01	
175	45°55'03".10	119°26'57".35	
176	45°55'18".10	119°21'48".12	
177	45°55'51".37	119°19'52".71	
178	45°55'54".48	119°19'39".28	a point on the center line of the Umatilla Bridge at the center of the north main span of said bridge
179	45°55'59".59	119°19'17".20	
180	45°56'10".26	119°17'47".60	a point on the axis of McNary Dam at the north face of the south nonoverflow section
181	45°56'15".24	119°17'05".76	
182	45°56'24".05	119°15'21".40	
183	45°55'58".60	119°13'28".22	
184	45°55'40".97	119°11'39".82	
185	45°55'40".26	119°10'05".04	
186	45°55'58".55	119°07'30".72	
187	45°56'34".25	119°05'32".00	
188	45°57'31".28	119°03'37".36	
189	45°58'09".33	119°01'33".95	
190	45°58'45".73	119°00'27".12	
191	46°00'00".00	118°59'10".12	

ARTICLE III. RATIFICATION AND EFFECTIVE DATE

This compact shall become operative when it has been ratified by the legislatures of the states of Oregon and Washington and approved by the Congress of the United States and the Constitutions of the states of Oregon and Washington have been amended to authorize the establishment of the boundary as herein provided. [1965 c 8 § 43.58.060. Prior: 1957 c 90 § 2.]

43.58.070 Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division

(2022 Ed.)

of archives. Upon ratification by the state of Oregon and approval by the Congress of the United States of the compact set forth in RCW 43.58.060, the secretary of the Washington-Oregon boundary commission is hereby directed to transmit all records, work sheets, maps, minutes and other papers of said commission to the division of archives and records management of the office of the secretary of state. [1981 c 115 § 3; 1965 c 8 § 43.58.070. Prior: 1957 c 90 § 3.]

Additional notes found at www.leg.wa.gov

43.58.090 Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when. Chapter 27, Laws of 1937, as amended by chapter 6, Laws of 1955 extraordinary session and chapter 43.58 RCW [RCW 43.58.010 through 43.58.040] each shall be repealed when the compact set forth in RCW 43.58.060 has been ratified by the state of Oregon and approved by the Congress of the United States. [1965 c 8 § 43.58.090. Prior: 1957 c 90 § 5.]

Reviser's note: See note following RCW 43.58.050.

**Chapter 43.59 RCW
TRAFFIC SAFETY COMMISSION**

Sections

- 43.59.010 Purpose—Finding.
- 43.59.020 Governor responsible for administration of traffic safety program—Acceptance and disbursement of federal funds.
- 43.59.030 Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence.
- 43.59.040 Powers and duties of commission.
- 43.59.050 Meetings—Travel expenses of members.
- 43.59.060 Director of commission—Appointment—Salary.
- 43.59.070 Director's duties—Staff—Rules and regulations.
- 43.59.080 Governor's duties as chair.
- 43.59.140 Driving while under the influence of intoxicating liquor or any drug—Information and education.
- 43.59.156 Cooper Jones active transportation safety council.
- 43.59.170 Child restraint systems in motor vehicles—Information and education.

Victim impact panel registry: RCW 10.01.230.

43.59.010 Purpose—Finding. (1) The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local level in the development of statewide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him or her under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

(2) The legislature finds and declares that bicycling and walking are becoming increasingly popular in Washington as

clean and efficient modes of transportation, as recreational activities, and as organized sports. Future plans for the state's transportation system will require increased access and safety for bicycles and pedestrians on our common roadways, and federal transportation legislation and funding programs have created strong incentives to implement these changes quickly. As a result, many more people are likely to take up bicycling in Washington both as a leisure activity and as a convenient, inexpensive form of transportation. Bicyclists are more vulnerable to injury and accident than motorists, and should be as knowledgeable as possible about traffic laws, be highly visible and predictable when riding in traffic, and be encouraged to wear bicycle safety helmets. Hundreds of bicyclists and pedestrians are seriously injured every year in accidents, and millions of dollars are spent on health care costs associated with these accidents. There is clear evidence that organized training in the rules and techniques of safe and effective cycling can significantly reduce the incidence of serious injury and accidents, increase cooperation among road users, and significantly increase the incidence of bicycle helmet use, particularly among minors. A reduction in accidents benefits the entire community. Therefore it is appropriate for businesses and community organizations to provide donations to bicycle and pedestrian safety training programs. [2009 c 549 § 5141; 1998 c 165 § 2; 1967 ex.s. c 147 § 1.]

Driver education courses: Chapter 28A.220 RCW.

Drivers' training schools: Chapter 46.82 RCW.

Additional notes found at www.leg.wa.gov

43.59.020 Governor responsible for administration of traffic safety program—Acceptance and disbursement of federal funds. The governor shall be responsible for the administration of the traffic safety program of the state and shall be the official of the state having ultimate responsibility for dealing with the federal government with respect to all programs and activities of the state and local governments pursuant to the Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731). The governor is authorized and empowered to accept and disburse federal grants or other funds or donations from any source for the purpose of improving traffic safety programs in the state of Washington, and is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) and in so doing, to cooperate with federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. [1967 ex.s. c 147 § 2.]

43.59.030 Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence. The governor shall be assisted in his or her duties and responsibilities by the Washington state traffic safety commission. The Washington traffic safety commission shall be composed of the governor as chair, the superintendent of public instruction, the director of licensing, the secretary of transportation, the chief of the state patrol, the secretary of health, the director of the health care authority, a representative of the association of Washington cities to be appointed by the governor, a member of the association of counties to

be appointed by the governor, and a representative of the judiciary to be appointed by the governor. Appointments to any vacancies among appointee members shall be as in the case of original appointment.

The governor may designate an employee of the governor's office familiar with the traffic safety commission to act on behalf of the governor during the absence of the governor at one or more of the meetings of the commission. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member, other than the governor's designee, to preside during the governor's absence. [2018 c 201 § 8010; 2016 c 206 § 2. Prior: 2009 c 549 § 5142; 1991 c 3 § 298; 1982 c 30 § 1; 1979 c 158 § 105; 1971 ex.s. c 85 § 7; 1969 ex.s. c 105 § 1; 1967 ex.s. c 147 § 3.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Codification correction—2016 c 206: "The 1982 codification of an amendment to RCW 43.59.030, concerning the designation and authority of the governor's designee to the traffic safety commission, incorrectly omitted two phrases that were included in chapter 30, Laws of 1982, as signed into law by governor John Spellman. Section 2 of this act restores the missing phrases." [2016 c 206 § 1.]

43.59.040 Powers and duties of commission. In addition to other responsibilities set forth in this chapter the commission shall:

(1) Advise and confer with the governing authority of any political subdivision of the state deemed eligible under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) for participation in the aims and programs and purposes of that act;

(2) Advise and confer with all agencies of state government whose programs and activities are within the scope of the Highway Safety Act including those agencies that are not subject to direct supervision, administration, and control by the governor under existing laws;

(3) Succeed to and be vested with all powers, duties, and jurisdictions previously vested in the Washington state safety council;

(4) Carry out such other responsibilities as may be consistent with this chapter. [1983 1st ex.s. c 14 § 1; 1967 ex.s. c 147 § 4.]

43.59.050 Meetings—Travel expenses of members. The commission shall meet at least quarterly and shall have such special meetings as may be required. Members of the commission shall receive no additional compensation for their services except that which shall be allowed as travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 120; 1967 ex.s. c 147 § 6.]

Additional notes found at www.leg.wa.gov

43.59.060 Director of commission—Appointment—Salary. The governor as chair of the commission shall appoint a person to be director of the Washington traffic safety commission which director shall be paid such salary as

shall be deemed reasonable and shall serve at the pleasure of the governor. [2009 c 549 § 5143; 1967 ex.s. c 147 § 7.]

43.59.070 Director's duties—Staff—Rules and regulations. The director shall be secretary of the commission and shall be responsible for carrying into effect the commission's orders and rules and regulations promulgated by the commission. The director shall also be authorized to employ such staff as is necessary pursuant to the provisions of chapter 41.06 RCW. The commission shall adopt such rules and regulations as shall be necessary to carry into effect the purposes of this chapter. [1967 ex.s. c 147 § 8.]

43.59.080 Governor's duties as chair. The governor as chair of said commission shall have the authority to appoint advisory committees as he or she may deem advisable to aid, advise and assist the commission in carrying out the purposes of this chapter. All actions and decisions, however, shall be made by the commission. [2009 c 549 § 5144; 1967 ex.s. c 147 § 9.]

43.59.140 Driving while under the influence of intoxicating liquor or any drug—Information and education. The Washington traffic safety commission shall produce and disseminate through all possible media, informational and educational materials explaining the extent of the problems caused by drinking drivers, the need for public involvement in their solution, and the penalties of existing and new laws against driving while under the influence of intoxicating liquor or any drug. [1991 c 290 § 4; 1983 c 165 § 42.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

43.59.156 Cooper Jones active transportation safety council. (1) Within amounts appropriated to the traffic safety commission, the commission must convene the Cooper Jones active transportation safety council comprised of stakeholders who have a unique interest or expertise in the safety of pedestrians, bicyclists, and other nonmotorists.

(2) The purpose of the council is to review and analyze data and programs related to fatalities and serious injuries involving pedestrians, bicyclists, and other nonmotorists to identify points at which the transportation system can be improved including, whenever possible, privately owned areas of the system such as parking lots, and to identify patterns in pedestrian, bicyclist, and other nonmotorist fatalities and serious injuries. The council may also:

(a) Monitor progress on implementation of existing council recommendations; and

(b) Seek opportunities to expand consideration and implementation of the principles of systematic safety, including areas where data collection may need improvement.

(3)(a) The council may include, but is not limited to:

(i) A representative from the commission;

(ii) A coroner from the county in which pedestrian, bicyclist, or nonmotorist deaths have occurred;

(iii) Multiple members of law enforcement who have investigated pedestrian, bicyclist, or nonmotorist fatalities;

(iv) A traffic engineer;

(v) A representative from the department of transportation and a representative from the department of health;

(vi) A representative from the association of Washington cities;

(vii) A representative from the Washington state association of counties;

(viii) A representative from a pedestrian advocacy group; and

(ix) A representative from a bicyclist or other nonmotorist advocacy group.

(b) The commission may invite other representatives of stakeholder groups to participate in the council as deemed appropriate by the commission. Additionally, the commission may invite a victim or family member of a victim to participate in the council.

(4) The council must meet at least quarterly. By December 31st of each year, the council must issue an annual report detailing any findings and recommendations to the governor and the transportation committees of the legislature. The commission must provide the annual report electronically to all municipal governments and state agencies that participated in the council during that calendar year. Additionally, the council must report any budgetary or fiscal recommendations to the office of financial management and the legislature by August 1st on a biennial basis.

(5) As part of the review of pedestrian, bicyclist, or nonmotorist fatalities and serious injuries that occur in Washington, the council may review any available information, including crash information maintained in existing databases; statutes, rules, policies, or ordinances governing pedestrians and traffic related to the incidents; and any other relevant information. The council may make recommendations regarding changes in statutes, ordinances, rules, and policies that could improve pedestrian, bicyclist, or nonmotorist safety. Additionally, the council may make recommendations on how to improve traffic fatality and serious injury data quality, including crashes that occur in privately owned property such as parking lots. The council may consult with local cities and counties, as well as local police departments and other law enforcement agencies and associations representing those jurisdictions on how to improve data quality regarding crashes occurring on private property.

(6)(a) Documents prepared by or for the council are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a review by the council, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by the council. For confidential information, such as personally identifiable information and medical records, which are obtained by the council, neither the commission nor the council may publicly disclose such confidential information. No person who was in attendance at a meeting of the council or who participated in the creation, retention, collection, or maintenance of information or documents specifically for the commission or the council shall be permitted to testify in any civil action as to the content of such proceedings or of the documents and information prepared specifically as part of the activities of the council. However, recommendations from the council and the commission generally may be disclosed without personal identifiers.

(b) The council may review, only to the extent otherwise permitted by law or court rule when determined to be relevant

and necessary: Any law enforcement incident documentation, such as incident reports, dispatch records, and victim, witness, and suspect statements; any supplemental reports, probable cause statements, and 911 call taker's reports; and any other information determined to be relevant to the review. The commission and the council must maintain the confidentiality of such information to the extent required by any applicable law.

(7) If acting in good faith, without malice, and within the parameters of and protocols established under this chapter, representatives of the commission and the council are immune from civil liability for an activity related to reviews of particular fatalities and serious injuries.

(8) This section must not be construed to provide a private civil cause of action.

(9)(a) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend the gifts, grants, or endowments from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(b) Subject to the appropriation of funds for this specific purpose, the council may provide grants targeted at improving pedestrian, bicyclist, or nonmotorist safety in accordance with recommendations made by the council.

(10) For purposes of this section:

(a) "Bicyclist fatality" means any death of a bicyclist resulting from a collision, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(b) "Council" means the Cooper Jones active transportation safety council.

(c) "Nonmotorist" means anyone using the transportation system who is not in a vehicle.

(d) "Pedestrian fatality" means any death of a pedestrian resulting from a collision, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(e) "Serious injury" means any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred. [2020 c 72 § 1.]

43.59.170 Child restraint systems in motor vehicles—Information and education. (1) The Washington traffic safety commission shall produce and disseminate informational and educational materials explaining the proper use of child restraint systems in motor vehicles, the safety risks of not properly using child restraint systems in motor vehicles, where assistance on the proper installation and use of child restraint systems in motor vehicles can be obtained, and the legal penalties for not properly using child restraint systems in motor vehicles.

(2) As used in this section, "child restraint system" has the same meaning as defined in RCW 46.61.687(6). [2019 c 59 § 2.]

Effective date—2019 c 59: See note following RCW 46.61.687.

Chapter 43.60A RCW DEPARTMENT OF VETERANS AFFAIRS

Sections

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- 43.60A.020 Department created—Powers, duties, and functions.
- 43.60A.030 Director—Qualifications—Salary—Vacancy.
- 43.60A.040 General powers and duties of director.
- 43.60A.050 Deputy director—Assistant directors.
- 43.60A.060 Delegation of powers and duties.
- 43.60A.070 Additional powers and duties of director.
- 43.60A.075 Powers as to state veterans' homes.
- 43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties.
- 43.60A.100 Counseling services—Veterans, including national guard and reservists.
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- 43.60A.900 Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved.
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Veterans and veterans' affairs: Title 73 RCW.

43.60A.010 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Committee" means the veterans affairs advisory committee.
- (2) "Department" means the department of veterans affairs.
- (3) "Director" means the director of the department of veterans affairs.
- (4) "Goods and services" includes professional services and all other goods and services.

(5) "Procurement" means the purchase, lease, or rental of any goods or services.

(6) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.

(7) "Veteran-owned business" means a business that is certified by the department to be at least fifty-one percent owned and controlled by:

(a) A veteran as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves. [2010 1st sp.s. c 7 § 117; 2010 c 5 § 2; 2006 c 343 § 2; 1975-'76 2nd ex.s. c 115 § 1.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2010 c 5 § 2 and by 2010 1st sp.s. c 7 § 117, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose—2010 c 5: "The legislature recognizes the unique sacrifices made by veterans and the substantial challenges that returning veterans face after a period of military duty away from home. The legislature further recognizes that veterans who own private businesses may face particular hardships as a direct result of their military service. The purpose of this act is to mitigate economic damage to veteran-owned businesses as a result of military service, and to provide opportunities to them in recognition of the outstanding service they have given to their country." [2010 c 5 § 1.]

Findings—2006 c 343: See note following RCW 43.60A.160.

Additional notes found at www.leg.wa.gov

43.60A.020 Department created—Powers, duties, and functions. There is hereby created a department of state government to be known as the department of veterans affairs. Powers, duties, and functions to be vested in the department shall include, but not be limited to, all those powers, duties, and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs relating to veterans and veteran affairs. [2017 c 185 § 1; 1975-'76 2nd ex.s. c 115 § 2.]

43.60A.030 Director—Qualifications—Salary—Vacancy. The executive head and appointing authority of the department shall be the director of veterans affairs. The director shall be an honorably discharged or retired veteran of the armed forces of the United States and shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when the governor shall present the nomination for the office to that body. [1975-'76 2nd ex.s. c 115 § 3.]

43.60A.040 General powers and duties of director. The director of the department of veterans affairs shall have the power and it shall be the director's duty:

(1) To conduct, control, and supervise the department;

(2) To appoint and employ and to determine the powers and duties together with the salaries and other expenses of

such clerical and other personnel, subject to the provisions of chapter 41.06 RCW, as are necessary to carry out the duties of the department; and

(3) To perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this chapter. [1975-'76 2nd ex.s. c 115 § 4.]

43.60A.050 Deputy director—Assistant directors.

The director may appoint a deputy director and assistant directors as shall be needed to administer the department, all of whom shall be veterans. The deputy shall have charge and general supervision of the department in the absence or disability of the director, and in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting director. [2018 c 45 § 2; 1975-'76 2nd ex.s. c 115 § 5.]

Certain personnel of department exempted from state civil service law: RCW 41.06.077.

43.60A.060 Delegation of powers and duties. The director may delegate any power or duty vested in or transferred to the director by law or executive order to a deputy director or to any other assistant or subordinate, but the director shall be responsible for the official acts of the officers and employees of the department. [1975-'76 2nd ex.s. c 115 § 6.]

43.60A.070 Additional powers and duties of director.

In addition to other powers and duties, the director is authorized:

(1) To cooperate with officers and agencies of the United States in all matters affecting veterans affairs;

(2) To accept grants, donations, and gifts on behalf of this state for veterans affairs from any person, corporation, government, or governmental agency, made for the benefit of a former member of the armed forces of this or any other country;

(3) To be custodian of all the records and files of the selective service system in Washington that may be turned over to this state by the United States or any department, bureau, or agency thereof; and to adopt and promulgate such rules and regulations as may be necessary for the preservation of such records and the proper use thereof in keeping with their confidential nature;

(4) To act without bond as conservator of the estate of a beneficiary of the veterans administration when the director determines no other suitable person will so act;

(5) To extend on behalf of the state of Washington such assistance as the director shall determine to be reasonably required to any veteran and to the dependents of any such veteran;

(6) To adopt rules pursuant to chapter 34.05 RCW, the Administrative Procedure Act, with respect to all matters of administration to carry into effect the purposes of this section. Such proposed rules shall be submitted by the department at the time of filing notice with the code reviser as required by RCW 34.05.320 to the respective legislative committees of the senate and of the house of representatives dealing with the subject of veteran affairs legislation through the offices of the secretary of the senate and chief clerk of the

house of representatives. [1989 c 175 § 108; 1975-'76 2nd ex.s. c 115 § 8.]

Additional notes found at www.leg.wa.gov

43.60A.075 Powers as to state veterans' homes. The director of the department of veterans affairs shall have full power to manage and govern the state soldiers' home and colony, the Washington veterans' home, the eastern Washington veterans' home, and the Walla Walla veterans' home. [2014 c 184 § 8; 2001 2nd sp.s. c 4 § 7; 1977 c 31 § 5.]

43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties. (1) There is hereby created a veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall appoint members to serve as liaisons to each of the state veterans' homes, unless the home has a representative appointed to the committee. This liaison must share information on committee meetings and business with the resident council of the state's veterans' homes, as well as bring information back for the committee's consideration to ensure veterans' home resident issues are included at regular committee meetings. The committee shall be composed of seventeen members to be appointed by the governor, and shall consist of the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's resident council may nominate up to three individuals whose names are to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations. If the resident council does not provide any nomination, the governor may appoint a member at large in place of the home's representative.

(b) One representative each from the three congressionally chartered or nationally recognized veterans service organizations as listed in the current "Directory of Veterans Service Organizations" published by the United States department of veterans affairs with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered or nationally recognized veterans service organizations listed in the directory under (b) of this subsection and having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large, as well as any other at large member appointed pursuant to (a) of this subsection. Any individual or organization may nominate a veteran for an at large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All

nominations for the at large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent all geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before June 11, 1992, shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(5) Members of the committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW. [2015 c 219 § 1; 1995 c 25 § 1; 1992 c 35 § 1; 1987 c 59 § 1; 1985 c 63 § 1; 1983 c 34 § 1; 1977 ex.s. c 285 § 1; 1975-'76 2nd ex.s. c 115 § 14.]

43.60A.100 Counseling services—Veterans, including national guard and reservists. The department of veterans affairs, to the extent funds are made available, shall: (1) Contract with professional counseling specialists to provide a range of direct treatment services to state veterans, including national guard and reservists, with military-related mental health needs, and their family members; (2) provide additional treatment services to Washington state Vietnam veterans for posttraumatic stress disorder, particularly for those veterans whose posttraumatic stress disorder has intensified or initially emerged due to war or combat-related stress; (3) provide an educational program designed to train primary care professionals, such as mental health professionals, about the effects of war-related stress, trauma, and traumatic brain injury; (4) provide informational and counseling services for the purpose of establishing and fostering peer-support networks throughout the state for families of deployed members of the reserves and the Washington national guard; (5) provide for veterans' families, a referral network of community mental health providers who are skilled in treating deployment stress, combat stress, posttraumatic stress, traumatic brain injury; and (6) offer training and support for volunteers interested in providing peer-to-peer support to other veterans. [2018 c 45 § 1. Prior: 2017 c 192 § 2; 2017 c 185 § 2; 1991 c 55 § 1.]

Findings—2017 c 192: "The legislature finds that:

(1) Veterans are national heroes who have made great sacrifices in their lives for the protection of our nation;

(2) Due to the relatively high number of military installations in our state, as well as the standard of living in our state, many veterans choose to live in Washington;

(3) Many veterans have a need for support services, including peer-to-peer counseling services. Some veterans need to talk about their experiences with combat, deployment, or other situations experienced during their time in the military. Often, there is no person better prepared to speak with a veteran about his or her experiences than another veteran;

(4) In 2009, the state of Texas created an award winning peer-to-peer counseling network, called the military veteran peer network. On a voluntary basis, veterans elect to receive specialized training about the facilitation of group counseling sessions. After receiving their training, the volunteers create peer-to-peer support groups in their local communities;

(5) Veterans living in Washington would benefit from a program that is similar to the military veteran peer network." [2017 c 192 § 1.]

Findings—2017 c 192: See note following RCW 43.41.460.

43.60A.101 Peer-to-peer support program—Report to the legislature. By December 31, 2018, the department of veterans affairs must submit a report to the legislature on the veteran peer-to-peer training and support program authorized in RCW 43.60A.100 to determine the effectiveness of the program in meeting the needs of veterans in the state. The report must include the number of veterans receiving peer-to-peer support and the location of such support services; the number of veterans trained through the program to provide peer-to-peer support; and the types of training and support services provided by the program. The report must also include an analysis of peer-to-peer training and support programs developed by other states, as well as in the private and nonprofit sectors, in order to evaluate best practices for implementing and managing the veteran peer-to-peer training and support program authorized in RCW 43.60A.100. [2017 c 192 § 5.]

Findings—2017 c 192: See notes following RCW 43.41.460 and 43.60A.100.

43.60A.110 Counseling—Coordination of programs. The department shall coordinate the programs contained in RCW 43.60A.100 with the services offered by the department of social and health services, local mental health organizations, and the federal department of veterans affairs to minimize duplication. [1991 c 55 § 2.]

43.60A.120 Counseling—Priority. The department of veterans affairs shall give priority in its counseling and instructional programs to treating state veterans located in rural areas of the state, especially those who are members of traditionally underserved minority groups, and women veterans. [1991 c 55 § 3.]

43.60A.130 Counseling—Posttraumatic stress disorder and combat stress program. The department of veterans affairs shall design its posttraumatic stress disorder and combat stress programs and related activities to provide veterans with as much privacy and confidentiality as possible and yet consistent with sound program management. [1991 c 55 § 4.]

43.60A.140 Veterans stewardship account. (1) The veterans stewardship account is created in the custody of the state treasurer. Disbursements of funds must be on the autho-

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ization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by the issuance of the armed forces license plate collection under chapter 46.18 RCW.

(3) All receipts from the sale of armed forces license plates and Purple Heart license plates as required under RCW 46.68.425(2) must be deposited into the veterans stewardship account.

(4) All moneys deposited into the veterans stewardship account must be used by the department for activities that benefit veterans or their families, including but not limited to, providing programs and services for homeless veterans; establishing memorials honoring veterans; and maintaining a future state veterans' cemetery. Funds from the account may not be used to supplant existing funds received by the department. For the 2019-2021 fiscal biennium, moneys deposited into the veterans stewardship account may be used for the department's traumatic brain injury program. [2019 c 415 § 965; 2016 c 31 § 4; 2010 c 161 § 1106; 2008 c 183 § 3; 2005 c 216 § 4.]

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2016 c 31: See note following RCW 46.18.280.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

43.60A.150 Veterans conservation corps—Created.

(1) The Washington veterans conservation corps is created. The department shall establish enrollment procedures for the program. Enrollees may choose to participate in either or both the volunteer projects list authorized in subsection (2) of this section, and the training, certification, ecotherapy, and placement program authorized in RCW 43.60A.151.

(2) The department shall create a list of veterans who are interested in working on projects that restore Washington's natural habitat. The department shall promote the opportunity to volunteer for the veterans conservation corps through its local counselors and representatives. Only veterans who grant their approval may be included on the list. The department shall consult with the salmon recovery board, the recreation and conservation funding board, the department of natural resources, the department of fish and wildlife, the department of agriculture, conservation districts, and the state parks and recreation commission to determine the most effective ways to market the veterans conservation corps to agencies and natural resource partners. [2017 c 185 § 3. Prior: 2007 c 451 § 2; 2007 c 241 § 6; 2005 c 257 § 2.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—Purpose—2005 c 257: "The legislature finds that many Washington citizens are veterans of armed forces conflicts that have important skills that may be employed in projects that help to protect and restore Washington's rivers, streams, lakes, marine waters, and open lands, and help to maintain urban and suburban wastewater and stormwater management systems. The legislature further finds that such work has demonstrated benefits for many veterans who are coping with posttraumatic stress disorder or have other mental health or substance abuse disorders related to their service in the armed forces. The legislature further finds that these projects provide

an opportunity for veterans to obtain on-the-job training, leading to certification in specific skill sets and to living wage employment in environmental restoration and stewardship. Therefore, it is the purpose of this chapter to create the veterans conservation corps program to assist veterans in obtaining training, certification, and employment in the field of environmental restoration and management, and to provide state funding assistance for projects that restore Washington's waters, forests, and habitat through the participation of veterans." [2007 c 451 § 1; 2005 c 257 § 1.]

43.60A.151 Veterans conservation corps—Employment assistance—Agreements for educational benefits—Receipt of gifts, grants, or federal moneys. (1) The department shall assist veterans enrolled in the veterans conservation corps with obtaining employment in conservation programs and projects that restore Washington's natural habitat, maintain and steward local, state, and federal forestlands and other outdoor lands, maintain and improve urban and suburban stormwater management facilities and other water management facilities, and other environmental maintenance, stewardship, and restoration projects. The department shall consult with the workforce training and education coordinating board, the state board for community and technical colleges, the employment security department, and other state agencies administering conservation corps programs, to incorporate training, education, ecotherapy, and certification in environmental restoration and management fields into the program. The department may enter into agreements with community colleges, private schools, conservation districts, state or local agencies, or other entities to provide training, internships, and educational courses as part of the enrollee benefits from the program.

(2) The department may receive gifts, grants, federal funds, or other moneys from public or private sources, for the use and benefit of the veterans conservation corps program. The funds shall be deposited to the veterans conservation corps account created in *RCW 43.60A.153. [2017 c 185 § 4; 2012 c 229 § 820; 2007 c 451 § 3.]

*Reviser's note: RCW 43.60A.153 was repealed by 2022 c 157 § 23.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

43.60A.152 Collaboration with departments implementing the Washington conservation corps. The department shall collaborate with the department of ecology and the department of natural resources and any of its partnering agencies in implementing the Washington conservation corps, created in chapter 43.220 RCW, to maximize the utilization of both conservation corps programs. These agencies shall work together to identify stewardship and maintenance projects on public lands that are suitable for work by veterans conservation corps enrollees. The department may expend funds appropriated to the veterans conservation corps program to defray the costs of education, training, and certification associated with the enrollees participating in such projects. [2011 c 20 § 13; 2007 c 451 § 5.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

Intent—Application—2011 c 20: See RCW 43.220.905.

43.60A.154 Agreements with federal entities for projects. The department shall seek to enter agreements with the bureau of land management, the national park service, the United States forest service, the United States fish and wild-

life service, and other federal agencies managing lands or waterways in Washington, for the employment of veterans conservation corps enrollees in maintenance, restoration, and stewardship projects. [2017 c 185 § 5; 2007 c 451 § 7.]

43.60A.155 Cooperation with the salmon recovery funding board regarding project work. The salmon recovery funding board shall cooperate with the department of veterans affairs to inform salmon habitat project sponsors of the availability of veterans conservation corps enrollees to perform project work. From applications submitted, the board and the department shall identify projects that propose work suitable for corps enrollees and located near where enrollees are based or may be created. The department may provide the project applicants with information regarding the benefits of employing a veterans conservation corps enrollee in the project, as well as training to increase the success of hiring a veteran. [2017 c 185 § 6; 2007 c 451 § 8.]

43.60A.160 Veterans innovations program. (1) There is created in the department a veterans innovations program. The purpose of the veterans innovations program is to provide crisis and emergency relief and education, training, and employment assistance to veterans and their families in their communities.

(2) Subject to the availability of amounts appropriated for the specific purposes provided in this section, the department must:

(a) Establish a process to make veterans and those still serving in the national guard or armed forces reserve aware of the veterans innovations program;

(b) Develop partnerships to assist veterans, national guard, or reservists in completing the veterans innovations program application; and

(c) Provide funding to support eligible veterans, national guard members, or armed forces reserves for:

(i) Crisis and emergency relief; and

(ii) Education, training, and employment assistance. [2014 c 179 § 1; 2006 c 343 § 3.]

Findings—2006 c 343: "The legislature finds that:

(1) A significant number of Washington citizens answered the call to serve our country in recent military action leaving behind families, community, employment, and education;

(2) Many soldiers returning to their families and communities face transition problems in areas such as family reunification, employment, education, and health;

(3) While the Washington state department of veterans affairs has provided services to many returning soldiers, a significant number have returned to families and communities without continuing ties to the military department or veterans' administration, but still in need of help; and

(4) Our state needs to honor and serve those who have protected our security and safety." [2006 c 343 § 1.]

43.60A.175 Receipt of gifts, grants, or endowments—Rule-making authority. (1) The department may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the veterans innovations program and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(2) The department may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of RCW 43.60A.160 through 43.60A.185.

(3) The department may perform all acts and functions as necessary or convenient to carry out the powers expressly granted or implied under chapter 343, Laws of 2006. [2014 c 179 § 2; 2011 c 60 § 37; 2006 c 343 § 6.]

Findings—2006 c 343: See note following RCW 43.60A.160.

Additional notes found at www.leg.wa.gov

43.60A.185 Veterans innovations program account.

The veterans innovations program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes of the veterans innovations program. [2014 c 179 § 3; 2010 1st sp.s. c 37 § 924; 2006 c 343 § 8.]

Findings—2006 c 343: See note following RCW 43.60A.160.

Additional notes found at www.leg.wa.gov

43.60A.190 Certified veteran-owned businesses. (1)

The department shall:

(a) Maintain a current list of certified veteran-owned businesses; and

(b) Make the list of certified veteran-owned businesses available on the department's public website.

(2) To qualify as a certified veteran-owned business, the business must:

(a) Be at least fifty-one percent owned and controlled by:

(i) A veteran as defined as every person who at the time he or she seeks certification has received a discharge with an honorable characterization or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the capacities listed in RCW 41.04.007;

(ii) A person who is in receipt of disability compensation or pension from the department of veterans affairs; or

(iii) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves; and

(b) Be either an enterprise which is incorporated in the state of Washington as a Washington domestic corporation, or an enterprise whose principal place of business is located within the state of Washington for enterprises which are not incorporated.

(3) To participate in the linked deposit program under chapter 43.86A RCW, a veteran-owned business qualified under this section must be certified by the department as a business:

(a) In which the veteran owner possesses and exercises sufficient expertise specifically in the business's field of operation to make decisions governing the long-term direction and the day-to-day operations of the business;

(b) That is organized for profit and performing a commercially useful function; and

(c) That meets the criteria for a small business concern as established under chapter 39.19 RCW.

(4) The department shall create a logo for the purpose of identifying veteran-owned businesses to the public. The department shall put the logo on an adhesive sticker or decal suitable for display in a business window and distribute the

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stickers or decals to veteran-owned businesses listed with the department.

(5)(a) Businesses may submit an application on a form prescribed by the department to apply for certification under this section.

(b) The department must notify the state treasurer of veteran-owned businesses who have participated in the linked deposit program and are no longer certified under this section. The written notification to the state treasurer must contain information regarding the reasons for the decertification and information on financing provided to the veteran-owned business under RCW 43.86A.060.

(6) The department may adopt rules necessary to implement this section. [2017 c 185 § 7; 2014 c 182 § 1; 2008 c 187 § 1; 2007 c 11 § 1.]

43.60A.195 Veteran-owned business certification—Rules—Outreach. (1)

The department shall develop a procedure for certifying veteran-owned businesses and maintain a list of veteran-owned businesses on the department's public website.

(2) The department shall adopt rules necessary to implement chapter 5, Laws of 2010. The department shall consult agencies to determine what specific information they must report to the department.

(3) The department shall collaborate with and may assist agencies in implementing outreach to veteran-owned businesses. [2010 c 5 § 3.]

Purpose—Construction—2010 c 5: See notes following RCW 43.60A.010.

43.60A.200 Awards of procurement contracts by state agencies to veteran-owned businesses. (1)

State agencies are encouraged to award three percent of all procurement contracts that are exempt from competitive bidding requirements under *RCW 43.19.1906(2) to veteran-owned businesses certified by the department under RCW 43.60A.195.

(2) State agencies shall:

(a) Perform outreach to veteran-owned businesses in collaboration with the department to increase opportunities for veteran-owned businesses to sell goods and services to the state; and

(b) Work to match agency procurement records with the department's database of certified veteran-owned businesses to establish how many procurement contracts are being awarded to those businesses. [2010 c 5 § 4.]

***Reviser's note:** RCW 43.19.1906 was repealed by 2012 c 224 § 29, effective January 1, 2013.

Purpose—Construction—2010 c 5: See notes following RCW 43.60A.010.

43.60A.210 Donations to disabled veterans assistance account.

Any retailer in the state may provide an opportunity for patrons to make voluntary donations to the disabled veterans assistance account created in RCW 43.60A.215 on Veterans' Day and any additional days the retailer decides would be appropriate. [2010 c 90 § 1.]

43.60A.215 Disabled veterans assistance account. (1)

The disabled veterans assistance account is created in the custody of the state treasurer. Disbursements of funds must be on

the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but an appropriation is not required to permit the expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by voluntary donations under RCW 43.60A.210.

(3) All receipts from voluntary donations under RCW 43.60A.210 must be deposited into the account.

(4) All moneys deposited into the account must be used by the department for activities that benefit veterans including, but not limited to, providing programs and services that assist veterans with the procurement of durable medical equipment, mobility enhancing equipment, emergency home or vehicle repair, emergency food or emergency shelter, or service animals. The first priority for assistance provided through the account must be given to veterans who are experiencing a financial hardship and do not qualify for other federal or state veterans programs and services. Funds from the account may not be used to supplant existing funds received by the department.

(5) For the purposes of this section, "veteran" has the same meaning as in RCW 41.04.005 and 41.04.007, and also means an actively serving member of the national guard or reserves, or is active duty military personnel. [2010 c 90 § 2.]

43.60A.220 Helmets to hardhats program. The coordinator for the helmets to hardhats program is created in the department of veterans affairs, subject to the availability of amounts appropriated for this specific purpose. The department shall establish procedures for coordinating with the national helmets to hardhats program and other opportunities for veterans to obtain skilled training and employment in the construction industry. [2015 c 216 § 1.]

43.60A.230 Veterans service officer program. (1) There is created in the department the veterans service officer program. The purpose of the veterans service officer program is to provide funding to underserved eligible counties to establish and maintain a veterans service officer within the county. "Eligible counties," for the purposes of this section, means counties with a population of one hundred thousand or less.

(2) Subject to the availability of amounts appropriated in the veterans service officer fund under RCW 43.60A.235 for the specific purposes provided in this section, the department must:

(a) Establish a process to educate local governments, veterans, and those still serving in the national guard or armed forces reserve of the veterans service officer program;

(b) Develop partnerships with local governments to assist in establishing and maintaining local veterans service officers in eligible counties who elect to have a veterans service officer; and

(c) Provide funding to support eligible counties in establishing and maintaining local accredited veterans service officers. Funding is provided on a first-come, first-served basis.

Funding may only be provided to support the equivalent of one full-time veterans service officer per eligible county.

(3) The application process for the veterans service officer program must be prescribed as to manner and form by the department. [2019 c 223 § 1.]

43.60A.235 Veterans service officer fund. (1) There is created in the custody of the state treasurer an account to be known as the veterans service officer fund. Revenues to the fund consist of appropriations by the legislature, private contributions, and all other sources deposited in the fund.

(2) Expenditures from the fund may only be used for the purposes of the veterans service officer program under RCW 43.60A.230, including administrative expenses. Only the director, or the director's designee, may authorize expenditures. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2019 c 223 § 2.]

43.60A.240 Lesbian, gay, bisexual, transgender, and queer coordinator—Created—Duties—Report. (1) The position of lesbian, gay, bisexual, transgender, and queer coordinator is created within the department.

(2) The duties of the lesbian, gay, bisexual, transgender, and queer coordinator include, but are not limited to:

(a) Conducting outreach to, and providing assistance designed for the unique needs of, veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans;

(b) Providing assistance to veterans who are lesbian, gay, bisexual, transgender, and queer in applying for an upgrade to the character of a discharge from service or a change in the narrative reason for a discharge from service;

(c) Providing assistance in applying for and obtaining veterans' benefits and benefits available through other programs that provide services and resources to veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans;

(d) Providing assistance to veterans who are lesbian, gay, bisexual, transgender, and queer in applying for, and in appealing any denial of, federal and state veterans' benefits and aid that such veterans, and the spouses and dependents of such veterans, may be entitled to; and

(e) Developing and distributing informational materials to veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans, regarding veterans' benefits and other benefit programs that provide services and resources to veterans who are lesbian, gay, bisexual, transgender, and queer, and to the spouses and dependents of such veterans.

(3) No later than December 15, 2021, the department must prepare and submit a report to the governor, the joint committee on veterans' and military affairs, and the appropriate standing committees of the legislature regarding the implementation and status of the position of lesbian, gay, bisexual, transgender, and queer coordinator created under subsection (1) of this section. The report must include, at a minimum, information regarding the following:

(a) The number of veterans served;

(b) The type of assistance provided;

(c) Recommendations for the improvement and expansion of the services provided by the coordinator; and

(d) Recommendations for legislative changes. [2020 c 56 § 2.]

Legislative declaration—2020 c 56: "The legislature declares that veterans must be able to access and receive the benefits and services they have earned in service to our country without regard to sexual orientation or gender identity. The legislature further declares that connecting lesbian, gay, bisexual, transgender, and queer veterans to their earned and related benefits and services, and to programs, resources, and information about such benefits and services, promotes the economic security and financial stability of veterans, and their spouses and dependents." [2020 c 56 § 1.]

43.60A.245 Military spouse liaison—Created—Duties. (1) The position of military spouse liaison is created within the department.

(2) The duties of the military spouse liaison include, but are not limited to:

(a) Conducting outreach to and advocating on behalf of military spouses in Washington;

(b) Providing assistance and information to military spouses seeking professional licenses and credentials or other employment in Washington;

(c) Coordinating research on issues facing military spouses and creating informational materials to assist military spouses and their families;

(d) Examining barriers and providing recommendations to assist spouses in accessing high quality child care and developing resources in coordination with military installations and the department of children, youth, and families to increase access to high quality child care for military families; and

(e) Developing, in coordination with the employment security department and employers, a common form for military spouses to complete highlighting specific skills, education, and training to help spouses quickly find meaningful employment in relevant economic sectors.

(3) The military spouse liaison is encouraged to periodically report on the work of the liaison to the relevant standing committees of the legislature and the joint committee on veterans' and military affairs and participate in policy development relating to military spouses. [2020 c 328 § 1.]

43.60A.250 Purple heart state—Signage—Account.

(1) The department is authorized to erect signs recognizing that Washington state is a purple heart state as designated in RCW 1.20.190. The department is authorized to accept gifts or donations to assist efforts related to Washington state being a purple heart state.

(2) The department of veterans affairs purple heart state account is created in the custody of the state treasurer. All receipts from gifts and donations received pursuant to this section must be deposited into the account. Expenditures from the account may only be used to erect signs or other activities that assist efforts related to Washington state being a purple heart state, as authorized under this section. Only the director of the department of veterans affairs or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2021 c 213 § 4.]

Findings—2021 c 213: See note following RCW 1.20.190.

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43.60A.260 Suicide prevention community-based services grant program. (1) There is created in the department a suicide prevention community-based services grant program. The purpose of the grant program is to provide suicide prevention, peer support, and other assistance to at-risk and transitioning veterans and military members and their families in their communities.

(2) Subject to the availability of amounts appropriated for the specific purposes provided in this section and amounts disbursed from the veterans and military members suicide prevention account created in RCW 43.60A.270, the department, in consultation with the forefront suicide prevention center, must establish a process to receive, review, process, and award grants to organizations, including nonprofit and peer support community programs, that address veterans, military members, and their families who may be at risk of suicide and other mental health crises. Priority should be given to organizations using peer support models that use evidence-based, research-based, or promising practices.

(3) The department shall report to the legislature annually beginning July 1, 2023, on grant recipients, number of veterans and military members served, and the types of services offered by grant recipients.

(4) The forefront suicide prevention center shall evaluate the effectiveness of each grant program recipient providing suicide prevention and peer support services to veterans, military members, and their families who may be at risk of suicide and other mental health crises.

(5) For the purposes of this section, "forefront suicide prevention center" means the University of Washington's forefront suicide prevention center of excellence. [2022 c 191 § 2.]

Findings—Intent—2022 c 191: "(1) Suicide is a public health issue that affects many Washington families and communities daily. Over the last 10 years, Washington state has been at the forefront of suicide prevention, investing more in upstream suicide prevention strategies and supports with the goal of a noteworthy reduction in suicide by 2025.

(2) At the request of the governor, in 2020 Washington stakeholders engaged in a national and statewide initiative to end veteran and military member suicide. This initiative culminated in a new state plan to educate providers and help them address the unique needs of veterans and military members, particularly those in transition to civilian life; and to provide resources and supports including improved lethal means safety training. The purpose of this act is to support the implementation of that plan.

(3) Service members, veterans, and their families are at a higher risk of being affected by suicide as experiences prior to enlistment, during service, and transition from service can contribute to suicidal thoughts and behaviors. A report on post-9/11 era military deaths by the United States department of veterans affairs found that service members are four times more likely to die by suicide than in military operations. Over 7,000 service members died in combat during the global war on terror, while more than 30,000 active duty members and veterans died by suicide. For veterans of all United States military operations, there is an average of 22 suicide deaths per day across the country, with one occurring every 65 minutes.

(4) Washington is home to 544,290 veterans, 60,699 active duty service members, 17,941 guard and reserve service members, and 2,000,000 military and veteran family members. Although veterans themselves make up only seven percent of the Washington population, they account for 19 percent of total suicides in the state. Nearly 1,000 veterans have died by suicide in Washington state over the last five years. More than two-thirds of veterans who died by suicide in Washington used a firearm.

(5) Family members of veterans who die by suicide are at higher risk for future suicide due to the exposure of experiencing suicide loss. Research shows for every suicide that occurs, 135 people suffer from the effects either directly or indirectly, meaning veteran suicides impact a community of 2,600,000 people.

(6) There is no one path to suicide, but life experiences, moral injury, trauma, culture, and health can play a major role in suicidal behavior. Mili-

tary and veteran culture in particular includes stigma around mental wellness and help-seeking behavior, emphasizes reliability on group cohesion, and facilitates access, comfortability, and familiarity with lethal means such as firearms. Additionally, a significant number of veterans do not seek care within the veterans administration system.

(7) The legislature intends to address the tragedy of suicide amongst veterans, military members, and their families through support of professionals and community and peer organizations serving veterans, cultural changes that support help-seeking behaviors, and investments in education, training, prevention, and care." [2022 c 191 § 1.]

43.60A.270 Veterans and military members suicide prevention account. (1) The veterans and military members suicide prevention account is created in the custody of the state treasurer. The account shall consist of funds appropriated by the legislature, revenues received from the prevent veteran suicide emblem under RCW 46.18.300, and all receipts from gifts, grants, bequests, devises, or other donations from public and private sources to support veterans and military members suicide prevention measures. Expenditures from the account may be used only for the purposes provided in subsection (3) of this section. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2)(a) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, and voluntary donations for deposit into the account, including funds generated by voluntary donations under (b) of this subsection.

(b) The department may accept, for deposit into the account, voluntary donations from persons who are: (i) Applying for a concealed pistol license or renewal of a concealed pistol license; or (ii) undergoing a background check under chapter 9.41 RCW in connection with the purchase of a firearm from a firearms dealer. The department shall coordinate with local law enforcement agencies, the department of licensing, and firearms dealers licensed under chapter 9.41 RCW to develop a form and process for publicizing and collecting voluntary donations under this subsection. The department and the department of licensing shall post educational information regarding the voluntary donation provisions of this section on their websites.

(3) All moneys deposited into the account must be used for activities that are dedicated to the benefit of veteran and military member suicide education and prevention including, but not limited to: (a) Expanding the department's peer corps program; and (b) providing programs, peer support, and services that assist veterans and military members in addressing mental health and wellness impacts of military service, trauma, moral injury, and transition to civilian life. Funds may also be used for the suicide prevention community-based services grant program established in RCW 43.60A.260. Funds from the account may not be used to supplant existing funds received by the department nor shall grant recipients use the funds to supplant existing funding.

(4) For the purposes of this section the following definitions apply:

(a) "Veteran" has the same meaning as provided in RCW 41.04.005 and 41.04.007.

(b) "Military members" means actively serving members of the national guard or reserves, or active duty military personnel.

(c) "Account" means the veterans and military members suicide prevention account. [2022 c 191 § 3.]

Findings—Intent—2022 c 191: See note following RCW 43.60A.260.

43.60A.275 Governor's challenge team and service members, veterans, and their families suicide prevention advisory committee—Biannual report on plan implementation. Beginning December 2022, subject to the availability of amounts appropriated for this specific purpose, the governor's challenge team and service members, veterans, and their families suicide prevention advisory committee shall report to the legislature on a biannual basis regarding implementation of the plan developed by the committee. [2022 c 191 § 4.]

Findings—Intent—2022 c 191: See note following RCW 43.60A.260.

43.60A.280 Mental health, well-being, and suicide prevention resources. Subject to the availability of amounts appropriated for this specific purpose, the department shall:

(1) Create and maintain a database of information on nonprofit, for-profit, city, county, state, and federal organizations, providers, and resources that address the mental health, well-being, and suicide prevention of veterans, military members, and their families. The department shall establish criteria for inclusion in the database by July 1, 2022. The department must make the database accessible on its website to veterans, military members, and their families by July 1, 2023;

(2) Provide suicide prevention education training and information for veterans, military members, and their families that is accessible through the internet; and

(3) By December 1, 2023, create, in consultation with the suicide-safer homes task force, a web-based application to be shared by state agencies and primary care providers with veterans, military members, and their families to provide applicable information and resources including but not limited to benefits, mental health resources, and lethal means safety information. [2022 c 191 § 5.]

Findings—Intent—2022 c 191: See note following RCW 43.60A.260.

43.60A.900 Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved. All employees and personnel of the department of social and health services directly engaged in services to veterans shall, on June 25, 1976, be transferred to the jurisdiction of the department of veterans affairs. All employees classified under chapter 41.06 RCW, the state civil service law, shall be assigned to the department to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law. [1975-'76 2nd ex.s. c 115 § 9.]

43.60A.903 Certification when apportionments of budgeted funds required because of transfers. If apportionments of budgeted funds are required because of the transfers authorized by this chapter, the director of financial

management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1979 c 151 § 126; 1975-'76 2nd ex.s. c 115 § 12.]

43.60A.904 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Construction to comply with federal law—Conflicting parts inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs included in this chapter, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. [1975-'76 2nd ex.s. c 115 § 13.]

43.60A.906 Collective bargaining units or agreements not altered. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [1993 c 281 § 52; 1975-'76 2nd ex.s. c 115 § 16.]

Additional notes found at www.leg.wa.gov

43.60A.907 Liberal construction—1975-'76 2nd ex.s. c 115. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the director the maximum possible freedom in carrying the provisions of this chapter into effect. [1975-'76 2nd ex.s. c 115 § 17.]

Chapter 43.61 RCW

VETERANS' REHABILITATION COUNCIL

Sections

43.61.030	Contracts with veterans' organizations to provide veterans services—Use of funds.
43.61.040	Director of veterans affairs to make rules and regulations—Veteran services—Annual report.
43.61.060	Donations may be accepted—Procedure for allotment and use.
43.61.070	Payments to veterans' organizations—Approval by director of veterans affairs.

Department of veterans affairs: Chapter 43.60A RCW.

(2022 Ed.)

43.61.030 Contracts with veterans' organizations to provide veterans services—Use of funds. The director of veterans affairs is empowered to contract with any veterans' organizations, now or hereafter chartered by act of congress to provide veterans services. All sums paid to veterans' organizations under contract shall be used by the organizations as specified in the contract in the maintenance of a rehabilitation service and to assist veterans in the prosecution of their claims and the solution of their problems arising out of military service. Such service and assistance shall be rendered all veterans and their dependents and also all beneficiaries of any military claim, and shall include but not be limited to those services now rendered by the service departments of the respective member organizations. [1983 c 260 § 1; 1975-'76 2nd ex.s. c 115 § 21; 1971 ex.s. c 189 § 5; 1970 ex.s. c 18 § 33; 1965 c 8 § 43.61.030. Prior: 1947 c 110 § 6; RRS § 10758-105.]

Additional notes found at www.leg.wa.gov

43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report. The director of veterans affairs shall make such rules and regulations as may be necessary to carry out the purposes of this chapter. The department shall furnish information, advice, and assistance to veterans and coordinate all programs and services in the field of veterans' claims service, education, health, vocational guidance and placement, and services not provided by some other agency of the state or by the federal government. The director shall submit a report of the departments' activities hereunder each year to the governor. [1977 c 75 § 60; 1975-'76 2nd ex.s. c 115 § 22; 1971 ex.s. c 189 § 6; 1970 ex.s. c 18 § 34; 1965 c 8 § 43.61.040. Prior: 1947 c 110 § 3; RRS § 10758-102.]

Additional notes found at www.leg.wa.gov

43.61.060 Donations may be accepted—Procedure for allotment and use. The department of veterans affairs may receive gifts, donations, and grants from any person or agency and all such gifts, donations, and grants shall be placed in the general fund and may be allotted and used in accordance with the donors' instructions as an unanticipated receipt pursuant to RCW 43.79.270 through 43.79.282 as now existing or hereafter amended. [1979 ex.s. c 59 § 1; 1971 ex.s. c 189 § 7; 1965 c 8 § 43.61.060. Prior: 1947 c 110 § 5; RRS § 10758-104.]

43.61.070 Payments to veterans' organizations—Approval by director of veterans affairs. Payments to any veterans' organization shall first be approved by the director of veterans affairs and insofar as possible shall be made on an equitable basis for work done. [1975-'76 2nd ex.s. c 115 § 24; 1970 ex.s. c 18 § 36; 1965 c 8 § 43.61.070. Prior: 1947 c 110 § 7; RRS § 10758-106.]

Additional notes found at www.leg.wa.gov

Chapter 43.62 RCW

DETERMINATION OF POPULATIONS—STUDENT ENROLLMENTS

Sections

43.62.010	Office of financial management—Population studies—Expenditures.
43.62.020	Method of allocating state funds to cities and towns prescribed.
43.62.030	Determination of population—Cities and towns—Certificate—Allocation of state funds.
43.62.035	Determining population—Projections.
43.62.040	Assistance to office of financial management—Determination by office of financial management conclusive.
43.62.050	Student enrollment forecasts—Report.
43.62.060	Federal decennial census—Rights and responsibilities.

43.62.010 Office of financial management—Population studies—Expenditures. If the state or any of its political subdivisions, or other agencies, use the population studies services of the office of financial management or the successor thereto, the state, its political subdivision, or other agencies utilizing such services shall pay for the cost of rendering such services. Expenditures shall be paid out of funds allocated to cities and towns under *RCW 82.44.155 and shall be paid from said fund before any allocations or payments are made to cities and towns under *RCW 82.44.155. [1990 c 42 § 317; 1979 c 151 § 127; 1975-'76 2nd ex.s. c 34 § 121; 1965 c 8 § 43.62.010. Prior: 1957 c 175 § 1; 1951 c 96 § 1; 1947 c 51 § 2; RRS § 5508-11.]

*Reviser's note: RCW 82.44.155 was repealed by 2006 c 318 § 10.

Purpose—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 46.68.090.

Additional notes found at www.leg.wa.gov

43.62.020 Method of allocating state funds to cities and towns prescribed. Whenever cities and towns of the state are, by law, allocated and entitled to be paid any funds or state moneys from any source, and the allocation and payment is required to be made on a populations basis, notwithstanding the provisions of any other law to the contrary, all such allocations shall be made on the basis of the population of the respective cities and towns as last determined by the office of financial management: PROVIDED, That the regular federal decennial census figures released for cities and towns shall be considered by the office of financial management in determining the population of cities and towns. [1979 c 151 § 128; 1965 c 8 § 43.62.020. Prior: 1957 c 175 § 2; prior: (i) 1949 c 60 § 1; RRS § 5508-3. (ii) 1947 c 51 § 1; RRS § 5508-10.]

43.62.030 Determination of population—Cities and towns—Certificate—Allocation of state funds. The office of financial management shall annually as of April 1st, determine the populations of all cities and towns of the state; and on or before July 1st of each year, shall file with the secretary of state a certificate showing its determination as to the populations of cities and towns of the state. A copy of such certificate shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and on and after January 1st next following the date when such certificate or certificates are filed, the population determination shown in such certificate or certificates shall be used as the basis for the allocation and payment of state

funds, to cities and towns until the next January 1st following the filing of successive certificates by the agency: PROVIDED, That whenever territory is annexed to a city or town, the population of the annexed territory shall be added to the population of the annexing city or town upon the effective date of the annexation as specified in the relevant ordinance, and upon approval of the agency as provided in RCW 35.13.260, as now or hereafter amended, a revised certificate reflecting the determination of the population as increased from such annexation shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for allocation and payment of state funds to such city or town until the next annual population determination becomes effective: PROVIDED FURTHER, That whenever any city or town becomes incorporated subsequent to the determination of such population, the populations of such cities and towns as shown in the records of incorporation filed with the secretary of state shall be used in determining the amount of allocation and payments, and the agency shall so notify the proper state officials or departments, and such cities and towns shall be entitled to participate in allocations thereafter made: PROVIDED FURTHER, That in case any incorporated city or town disincorporates subsequent to the filing of such certificate or certificates, the agency shall promptly notify the proper state officials or departments thereof, and such cities and towns shall cease to participate in allocations thereafter made, and all credit accrued to such incorporated city or town shall be distributed to the credit of the remaining cities and towns. The secretary of state shall promptly notify the agency of the incorporation of each new city and town and of the disincorporation of any cities or towns.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate due to an annexation is forwarded by the agency thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

Armed forces shipboard population, on-base naval group quarter population, and military dependents living in housing under United States navy jurisdiction, shall be determined quarterly by the office of financial management on the first days of January, April, July, and October. These counts shall be used to increase or decrease the armed forces component of the resident population determinations in the cities of Bremerton and Everett for the purpose of allocating state revenues according to this section. Counts on the first day of the quarterly periods commencing with January, April, July, and October shall be used to adjust the total population for the following quarter, in the same manner adjustments are made for population changes due to annexation as specified in RCW 35.13.260 and 35A.14.700.

Population determinations made under this section shall include only those persons who meet resident population criteria as defined by the federal bureau of the census. [1988 c

260 § 1; 1979 c 151 § 129; 1977 c 75 § 61; 1969 ex.s. c 50 § 2; 1965 c 8 § 43.62.030. Prior: 1957 c 175 § 3; 1951 c 96 § 2.]

Determination of population of area annexed to city: RCW 35.13.260.

43.62.035 Determining population—Projections.

The office of financial management shall determine the population of each county of the state annually as of April 1st of each year and on or before July 1st of each year shall file a certificate with the secretary of state showing its determination of the population for each county. The office of financial management also shall determine the percentage increase in population for each county over the preceding ten-year period, as of April 1st, and shall file a certificate with the secretary of state by July 1st showing its determination. At least once every five years or upon the availability of decennial census data, whichever is later, the office of financial management shall prepare twenty-year growth management planning population projections required by RCW 36.70A.110 for each county that adopts a comprehensive plan under RCW 36.70A.040 and shall review these projections with such counties and the cities in those counties before final adoption. The county and its cities may provide to the office such information as they deem relevant to the office's projection, and the office shall consider and comment on such information before adoption. Each projection shall be expressed as a reasonable range developed within the standard state high and low projection. The middle range shall represent the office's estimate of the most likely population projection for the county. If any city or county believes that a projection will not accurately reflect actual population growth in a county, it may petition the office to revise the projection accordingly. The office shall complete the first set of ranges for every county by December 31, 1995.

A comprehensive plan adopted or amended before December 31, 1995, shall not be considered to be in noncompliance with the twenty-year growth management planning population projection if the projection used in the comprehensive plan is in compliance with the range later adopted under this section. [1997 c 429 § 26; 1995 c 162 § 1; 1991 sp.s. c 32 § 30; 1990 1st ex.s. c 17 § 32.]

Additional notes found at www.leg.wa.gov

43.62.040 Assistance to office of financial management—Determination by office of financial management conclusive. The department of revenue or any other state officer or officials of cities, towns, or counties shall upon request of the office of financial management furnish such information, aid, and assistance as may be required by the office of financial management in the performance of its population studies. The action of the office of financial management in determining the population shall be final and conclusive. [1979 c 151 § 130; 1975 1st ex.s. c 278 § 25; 1965 c 8 § 43.62.040. Prior: 1957 c 175 § 4; 1951 c 96 § 3.]

Additional notes found at www.leg.wa.gov

43.62.050 Student enrollment forecasts—Report.

The office of financial management shall develop and maintain student enrollment forecasts of Washington schools, including both public and private, elementary schools, junior high schools, high schools, colleges, and universities. A current report of such forecasts shall be submitted to the standing

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committees on ways and means of the house and the senate on or before the fifteenth day of November of each even-numbered year. [1979 c 151 § 131; 1977 c 75 § 62; 1975 1st ex.s. c 293 § 2; 1965 c 8 § 43.62.050. Prior: 1959 c 171 § 1; 1957 c 229 § 1.]

Review of reported FTE students: RCW 28A.150.260.

43.62.060 Federal decennial census—Rights and responsibilities. (1) It is the intent of the legislature to affirm that every Washingtonian has the right and obligation to participate in the federal decennial census freely and without fear of fraud, intimidation, or harm, and to inform the public of these rights.

(2) The legislature affirms the rights of Washingtonians to all of the following, to be known as the Washington census bill of rights and responsibilities:

(a) To participate in the federal decennial census free of threat or intimidation;

(b) To the confidentiality of the information provided in the census form, as provided by federal law;

(c) To respond to the census by means made available to the respondent, either by phone, by mail, online, or in person;

(d) To request language assistance in accordance with federal law; and

(e) To verify the identity of a census worker.

(3) The secretary of state shall translate the Washington census bill of rights and responsibilities into languages other than English, consistent with the federal voting rights act of 1965, 52 U.S.C. Sec. 10503.

(4) The office of financial management shall make the Washington census bill of rights and responsibilities available on its internet website and available for inclusion on city and county census internet websites and census questionnaire assistance center internet websites. [2020 c 34 § 1.]

Effective date—2020 c 34: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 18, 2020]." [2020 c 34 § 4.]

Chapter 43.63A RCW

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Sections

- 43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Duties of department of children, youth, and families.
- 43.63A.068 Advisory committee on policies and programs for children and families with incarcerated parents—Funding for programs and services.
- 43.63A.075 Community development finance program.
- 43.63A.105 Considerations in designating local community action and community service agencies.
- 43.63A.115 Community action agency network—Delivery system for federal and state antipoverty programs.
- 43.63A.125 Nonresidential social services facilities—Building communities fund program—Assistance to nonprofit organizations—Competitive process—Recommendations to legislature for funding.
- 43.63A.135 Nonresidential youth services facilities—Competitive process—Recommendations to legislature for funding.
- 43.63A.155 Local government bond information—Publication—Rules.
- 43.63A.190 Distribution of funds for border areas.
- 43.63A.215 Accessory apartments—Development and placement—Local governments.

- 43.63A.230 Employee ownership and self-management—Technical assistance and educational programs.
- 43.63A.275 Retired senior volunteer programs (RSVP)—Funds distribution.
- 43.63A.305 Independent youth housing program—Created—Collaboration with the department of social and health services—Duties of subcontractor organizations.
- 43.63A.307 Independent youth housing program—Definitions.
- 43.63A.309 Independent youth housing program—Eligible youth—Participation.
- 43.63A.311 Independent youth housing program—Subcontractor organization performance review and report.
- 43.63A.313 Independent youth housing program—Limitations.
- 43.63A.315 Independent youth housing account.
- 43.63A.400 Grants to public broadcast stations.
- 43.63A.410 Grants to broadcast stations eligible for grants from corporation for public broadcasting—Formula—Annual financial statements.
- 43.63A.420 Grants to other broadcast stations—Eligibility—Amounts.
- 43.63A.470 Manufactured housing—Inspections, investigations.
- 43.63A.475 Manufactured housing—Rules.
- 43.63A.480 Manufactured housing—Hearing procedures.
- 43.63A.485 Manufactured housing—Violations—Fines.
- 43.63A.490 Manufactured housing—Contingent expiration date.
- 43.63A.500 Farmworker housing construction manuals and plans.
- 43.63A.505 Agricultural employee housing—One-stop clearinghouse.
- 43.63A.510 Affordable housing—Inventory of state-owned land.
- 43.63A.550 Growth management—Inventorying and collecting data.
- 43.63A.610 Emergency mortgage assistance—Guidelines.
- 43.63A.620 Emergency rental assistance—Guidelines.
- 43.63A.630 Emergency mortgage and rental assistance program—Eligibility.
- 43.63A.640 Emergency mortgage and rental assistance program—Duties—Interest rate, assignment, eligibility.
- 43.63A.645 Emergency housing programs—Rules.
- 43.63A.650 Housing—Department's responsibilities.
- 43.63A.660 Housing—Technical assistance and information, affordable housing.
- 43.63A.670 Home-matching program—Finding, purpose.
- 43.63A.680 Home-matching program—Pilot programs.
- 43.63A.690 Minority and women-owned business enterprises—Linked deposit program.
- 43.63A.720 Prostitution prevention and intervention services—Grant program.
- 43.63A.725 Prostitution prevention and intervention grants—Eligibility.
- 43.63A.730 Prostitution prevention and intervention grants—Applications, contents.
- 43.63A.735 Prostitution prevention and intervention grants—Award and use.
- 43.63A.740 Prostitution prevention and intervention account.
- 43.63A.750 Performing arts, art museums, cultural facilities—Competitive grant program for nonprofit organizations.
- 43.63A.764 Building communities fund program—Definitions.
- 43.63A.766 Building communities fund account.
- 43.63A.768 Building communities fund program—Accountability and reporting standards—Annual report.

Annexations to cities or towns, annexation certificate submitted to the office of financial management: RCW 35.13.260.

Center for volunteerism and citizen service within department of commerce: RCW 43.150.040.

Community and technical college board to assist in enrollment projections: RCW 28B.50.090.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

Occupational forecast—Agency consultation: RCW 50.38.030.

Projects of statewide significance—Assignment of project facilitator or coordinator: RCW 43.157.030.

Scenic and recreational highway act, planning and design standards coordinated by department of commerce: RCW 47.39.040.

43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Duties of department of children, youth, and families. The department of children, youth, and families shall have primary responsibility for providing child abuse and neglect prevention training to pre-school age children participating in the federal head start pro-

gram or the early childhood education and assistance program established under RCW 28A.215.010 through 28A.215.050, 43.216.500 through 43.216.550, 43.216.900, and 43.216.901. [2018 c 58 § 4; 2006 c 265 § 212; 1993 c 280 § 58; 1990 c 33 § 579; 1987 c 489 § 4.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

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

Additional notes found at www.leg.wa.gov

43.63A.068 Advisory committee on policies and programs for children and families with incarcerated parents—Funding for programs and services. (1)(a) The department of commerce shall establish an advisory committee to monitor, guide, and report on recommendations relating to policies and programs for children and families with incarcerated parents.

(b) The advisory committee shall include representatives of the department of corrections, the department of social and health services, the department of children, youth, and families, the office of the superintendent of public instruction, representatives of the private nonprofit and business sectors, child advocates, representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.), court administrators, the administrative office of the courts, the Washington association of sheriffs and police chiefs, jail administrators, the office of the governor, and others who have an interest in these issues.

(c) The advisory committee shall:

(i) Gather the data collected by the departments as required in RCW 72.09.495, 74.04.800, 43.216.060, and 28A.300.520;

(ii) Monitor and provide consultation on the implementation of recommendations contained in the 2006 children of incarcerated parents report;

(iii) Identify areas of need and develop recommendations for the legislature, the department of social and health services, the department of corrections, the department of children, youth, and families, and the office of the superintendent of public instruction to better meet the needs of children and families of persons incarcerated in department of corrections facilities; and

(iv) Advise the department of commerce regarding community programs the department should fund with moneys appropriated for this purpose in the operating budget. The advisory committee shall provide recommendations to the department regarding the following:

(A) The goals for geographic distribution of programs and funding;

(B) The scope and purpose of eligible services and the priority of such services;

(C) Grant award funding limits;

(D) Entities eligible to apply for the funding;

(E) Whether the funding should be directed towards starting or supporting new programs, expanding existing programs, or whether the funding should be open to all eligible services and providers; and

(F) Other areas the advisory committee determines appropriate.

(d) The children of incarcerated parents advisory committee shall update the legislature and governor biennially on committee activities, with the first update due by January 1, 2010.

(2) The department of commerce shall select community programs or services to receive funding that focus on children and families of inmates incarcerated in a department of corrections facility and sustaining the family during the period of the inmate's incarceration.

(a) Programs or services which meet the needs of the children of incarcerated parents should be the greatest consideration in the programs that are identified by the department.

(b) The department shall consider the recommendations of the advisory committee regarding which services or programs the department should fund.

(c) The programs selected shall collaborate with an agency, or agencies, experienced in providing services to aid families and victims of sexual assault and domestic violence to ensure that the programs identify families who have a history of sexual assault or domestic violence and ensure the services provided are appropriate for the children and families. [2018 c 58 § 3; 2009 c 518 § 18; 2007 c 384 § 6.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Intent—Finding—2007 c 384: See note following RCW 72.09.495.

43.63A.075 Community development finance program. The department shall establish a community development finance program. Pursuant to this program, the department shall, in cooperation with the local economic development council: (1) Develop expertise in federal, state, and local community and economic development programs; and (2) assist communities and businesses to secure available financing. To the extent permitted by federal law, the department is encouraged to use federal community block grant funds to make urban development action grants to communities which have not been eligible to receive such grants prior to June 30, 1984. [1999 c 108 § 1; 1993 c 280 § 59; 1985 c 466 § 53; 1984 c 125 § 6.]

Additional notes found at www.leg.wa.gov

43.63A.105 Considerations in designating local community action and community service agencies. In designating local community action agencies or local community service agencies, the department shall give special consideration to (1) agencies previously funded under any community services or antipoverty program; (2) agencies meeting state and federal program and fiscal requirements; and (3) successors to such agencies. [1984 c 125 § 10.]

43.63A.115 Community action agency network—Delivery system for federal and state antipoverty programs. (1) The community action agency network, established initially under the federal economic opportunity act of 1964 and subsequently under the federal community services block grant program of 1981, as amended, shall be a delivery system for federal and state antipoverty programs in this state, including but not limited to the community services block grant program, the low-income energy assistance program, and the federal department of energy weatherization program.

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(2) Local community action agencies comprise the community action agency network. The community action agency network shall serve low-income persons in the counties. Each community action agency and its service area shall be designated in the state federal community service block grant plan as prepared by the *department of community, trade, and economic development.

(3) Funds for antipoverty programs may be distributed to the community action agencies by the *department of community, trade, and economic development and other state agencies in consultation with the authorized representatives of community action agency networks. [1993 c 280 § 60; 1990 c 156 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.63A.125 Nonresidential social services facilities—Building communities fund program—Assistance to nonprofit organizations—Competitive process—Recommendations to legislature for funding. (1) The department shall establish the building communities fund program. Under the program, capital and technical assistance grants may be made to nonprofit organizations for acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential community services, including social service centers and multipurpose community centers, including those serving a distinct or ethnic population. Such facilities must be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

(2) The department shall establish a competitive process to solicit, evaluate, and rank applications for the building communities fund program as follows:

(a) The department shall conduct a statewide solicitation of project applications from nonprofit organizations.

(b) The department shall evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. To be considered qualified, applicants must demonstrate that the proposed project:

(i) Will increase the range, efficiency, or quality of the services provided to citizens;

(ii) Will be located in a distressed community or will serve a substantial number of low-income or disadvantaged persons;

(iii) Will offer three or more distinct activities that meet a single community service objective or offer a diverse set of activities that meet multiple community service objectives, including but not limited to: Providing social services; expanding employment opportunities for or increasing the employability of community residents; or offering educational or recreational opportunities separate from the public school system or private schools, as long as recreation is not the sole purpose of the facility;

(iv) Reflects a long-term vision for the development of the community, shared by residents, businesses, leaders, and partners;

(v) Requires state funding to accomplish a discrete, usable phase of the project;

(vi) Is ready to proceed and will make timely use of the funds;

(vii) Is sponsored by one or more entities that have the organizational and financial capacity to fulfill the terms of the grant agreement and to maintain the project into the future;

(viii) Fills an unmet need for community services;

(ix) Will achieve its stated objectives; and

(x) Is a community priority as shown through tangible commitments of existing or future assets made to the project by community residents, leaders, businesses, and government partners.

(c)(i) The evaluation and ranking process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed 25 percent of the total cost of the project, except as provided in (c)(ii) and (iii) of this subsection (2).

(ii) For project lists submitted during the 2021-2023 fiscal biennium, grant assistance under this section may not exceed:

(A) One hundred percent of the total cost for projects up to \$100,000;

(B) Seventy-five percent of the total cost for projects that exceed \$100,000, up to \$250,000;

(C) Fifty percent of the total cost for projects that exceed \$250,000, up to \$500,000.

(iii) Under exceptional circumstances, the department may reduce the amount of nonstate match required. However, during the 2019-2021 biennium, the legislature may waive the match required for the projects specified in section 1009, chapter 413, Laws of 2019. No more than 10 percent of the total granted amount may be awarded to qualified eligible projects that meet the definition of exceptional circumstances defined in this subsection. For project lists submitted during the 2021-2023 fiscal biennium, there is no limit to the total granted amount awarded to qualified eligible projects that meet the definition of exceptional circumstances defined in this subsection. For purposes of this subsection, exceptional circumstances include but are not limited to: Natural disasters affecting projects; emergencies beyond an applicant's control, such as a fire or an unanticipated loss of a lease where services are currently provided; or a delay that could result in a threat to public health or safety. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(d) The department may not set a monetary limit to funding requests.

(3) The department shall submit biennially to the governor and the legislature in the department's capital budget request a ranked list of the qualified eligible projects for which applications were received. The list must include a description of each project, its total cost, and the amount of state funding requested. The appropriate fiscal committees of the legislature shall use this list to determine building communities fund projects that may receive funding in the capital budget. The total amount of state capital funding available for all projects on the biennial list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter. In addition, if cash funds have been appropriated, up to \$3,000,000 may be used for technical assistance grants. The department shall not sign contracts or otherwise finan-

cially obligate funds under this section until the legislature has approved a specific list of projects.

(4) In addition to the list of ranked qualified eligible projects, the department shall submit to the appropriate fiscal committees of the legislature a summary report that describes the solicitation and evaluation processes, including but not limited to the number of applications received, the total amount of funding requested, issues encountered, if any, and any recommendations for process improvements.

(5) After the legislature has approved a specific list of projects in law, the department shall develop and manage appropriate contracts with the selected applicants; monitor project expenditures and grantee performance; report project and contract information; and exercise due diligence and other contract management responsibilities as required.

(6) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant. [2022 c 296 § 7005; 2019 c 413 § 7030; 2011 1st sp.s. c 48 § 7027; 2008 c 327 § 15; 2006 c 371 § 233; 2005 c 160 § 1; 1999 c 295 § 3; 1997 c 374 § 2.]

Effective date—2022 c 296: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2022]." [2022 c 296 § 7014.]

Effective date—2019 c 413: See note following RCW 28B.15.210.

Findings—1997 c 374: "The legislature finds that nonprofit organizations provide a variety of social services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities." [1997 c 374 § 1.]

Additional notes found at www.leg.wa.gov

43.63A.135 Nonresidential youth services facilities—Competitive process—Recommendations to legislature for funding. (1) The *department of community, trade, and economic development must establish a competitive process to solicit proposals for and prioritize projects whose primary objective is to assist nonprofit youth organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential services, excluding outdoor athletic fields.

(2) The *department of community, trade, and economic development must establish a competitive process to prioritize applications for the assistance as follows:

(a) The *department of community, trade, and economic development must conduct a statewide solicitation of project applications from local governments, nonprofit organizations, and other entities, as determined by the *department of community, trade, and economic development. The *department of community, trade, and economic development must evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. Projects must

have a major recreational component, and must have either an educational or social service component. At a minimum, applicants must demonstrate that the requested assistance will increase the efficiency or quality of the services it provides to youth. The evaluation and ranking process must also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section may not exceed twenty-five percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(b) The *department of community, trade, and economic development must submit a prioritized list of recommended projects to the governor and the legislature in the department of community, trade, and economic development's biennial capital budget request beginning with the 2005-2007 biennium and thereafter. The list must include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list must not exceed eight million dollars. The *department of community, trade, and economic development may not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(c) In contracts for grants authorized under this section the *department of community, trade, and economic development must include provisions that require that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee must repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant. [2006 c 371 § 234; 2005 c 160 § 4; 2003 1st sp.s. c 7 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—2003 1st sp.s. c 7: "The legislature finds that nonprofit youth organizations provide a variety of services for the youth of Washington state, including many services that enable young people, especially those facing challenging and disadvantaged circumstances, to realize their full potential as productive, responsible, and caring citizens. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities." [2003 1st sp.s. c 7 § 1.]

Additional notes found at www.leg.wa.gov

43.63A.155 Local government bond information—Publication—Rules. The *department of community, trade, and economic development shall retain the bond information it receives under RCW 39.44.210 and 39.44.230 and shall publish summaries of local government bond issues at least once a year.

The *department of community, trade, and economic development shall adopt rules under chapter 34.05 RCW to implement RCW 39.44.210 and 39.44.230. [1993 c 280 § 61; 1989 c 225 § 5; 1985 c 130 § 6.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

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Additional notes found at www.leg.wa.gov

43.63A.190 Distribution of funds for border areas. Funds appropriated by the legislature as supplemental resources for border areas must be distributed by the state treasurer pursuant to the formula for distributing funds to border areas, and expenditure requirements for such distributions, under RCW 66.08.196. [2012 2nd sp.s. c 5 § 12; 1995 c 159 § 5; 1984 c 125 § 11; 1981 c 269 § 2.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Additional notes found at www.leg.wa.gov

43.63A.215 Accessory apartments—Development and placement—Local governments. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, report to the legislature on the development and placement of accessory apartments. The department shall produce a written report by December 15, 1993, which:

(a) Identifies local governments that allow the siting of accessory apartments in areas zoned for single-family residential use; and

(b) Makes recommendations to the legislature designed to encourage the development and placement of accessory apartments in areas zoned for single-family residential use.

(2) The recommendations made under subsection (1) of this section shall not take effect before ninety days following adjournment of the 1994 regular legislative session.

(3) Unless provided otherwise by the legislature, by December 31, 1994, local governments shall incorporate in their development regulations, zoning regulations, or official controls the recommendations contained in subsection (1) of this section. The accessory apartment provisions shall be part of the local government's development regulation, zoning regulation, or official control. To allow local flexibility, the recommendations shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority.

(4) As used in this section, "local government" means:

(a) A city or code city with a population that exceeds twenty thousand;

(b) A county that is required to or has elected to plan under the state growth management act; and

(c) A county with a population that exceeds one hundred twenty-five thousand. [1993 c 478 § 7.]

43.63A.230 Employee ownership and self-management—Technical assistance and educational programs. The *department of community, trade, and economic development shall provide technical assistance to cooperatives authorized under chapter 23.78 RCW and conduct educational programs on employee ownership and self-management. The department shall include information on the option of employee ownership wherever appropriate in its various programs. [2005 c 136 § 2; 1993 c 280 § 63; 1988 c 186 § 17; 1987 c 457 § 15.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.63A.275 Retired senior volunteer programs (RSVP)—Funds distribution. (1) Each biennium the *department of community, trade, and economic development shall distribute such funds as are appropriated for retired senior volunteer programs (RSVP) as follows:

(a) At least sixty-five percent of the moneys may be distributed according to formulae and criteria to be determined by the *department of community, trade, and economic development in consultation with the RSVP directors association.

(b) Up to twenty percent of the moneys may be distributed by competitive grant process to develop RSVP projects in counties not presently being served, or to expand existing RSVP services into counties not presently served.

(c) Ten percent of the moneys may be used by the *department of community, trade, and economic development for administration, monitoring of the grants, and providing technical assistance to the RSVP projects.

(d) Up to five percent of the moneys may be used to support projects that will benefit RSVPs statewide.

(2) Grants under subsection (1) of this section shall give priority to programs in the areas of education, tutoring, English as a second language, combating of and education on drug abuse, housing and homeless, and respite care, and shall be distributed in accordance with the following:

(a) None of the grant moneys may be used to displace any paid employee in the area being served.

(b) Grants shall be made for programs that focus on:

(i) Developing new roles for senior volunteers in non-profit and public organizations with special emphasis on areas targeted in section 1, chapter 65, Laws of 1992. The roles shall reflect the diversity of the local senior population and shall respect their life experiences;

(ii) Increasing the expertise of volunteer managers and RSVP managers in the areas of communication, recruitment, motivation, and retention of today's over-sixty population;

(iii) Increasing the number of senior citizens recruited, referred, and placed with nonprofit and public organizations; and

(iv) Providing volunteer support such as: Mileage to and from the volunteer assignment, recognition, and volunteer insurance. [1993 c 280 § 67; 1992 c 65 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—1992 c 65: "The legislature finds that there is a growing number of citizens in the state over the age of sixty who have much to offer their fellow citizens and communities through volunteer service. The legislature further finds that public programs for education, at-risk youth, adult literacy, and combating drug abuse have benefited from and are still in need of the assistance of skilled retired senior volunteer programs volunteers. In addition the legislature further finds that public programs for developmentally disabled, environmental protection, corrections, crime prevention, mental health, long-term and respite care, and housing and homeless, among others, are also in need of volunteer assistance from the retired senior volunteer program.

Therefore, the legislature intends to encourage the increased involvement of senior volunteers by providing funding throughout Washington to promote the development and enhancement of such programs." [1992 c 65 § 1.]

Additional notes found at www.leg.wa.gov

43.63A.305 Independent youth housing program—Created—Collaboration with the department of social and health services—Duties of subcontractor organiza-

tions. (1) The independent youth housing program is created in the department to provide housing stipends to eligible youth to be used for independent housing. In developing a plan for the design, implementation, and operation of the independent youth housing program, the department shall:

(a) Adopt policies, requirements, and procedures necessary to administer the program;

(b) Contract with one or more eligible organizations described under RCW 43.185A.040 to provide services and conduct administrative activities as described in subsection (3) of this section;

(c) Establish eligibility criteria for youth to participate in the independent youth housing program, giving priority to youth who have been dependents of the state for at least one year;

(d) Refer interested youth to the designated subcontractor organization administering the program in the area in which the youth intends to reside;

(e) Develop a method for determining the amount of the housing stipend, first and last month's rent, and security deposit, where applicable, to be dedicated to participating youth. The method for determining a housing stipend must take into account a youth's age, the youth's total income from all sources, the fair market rent for the area in which the youth lives or intends to live, and a variety of possible living situations for the youth. The amount of housing stipends must be adjusted, by a method and formula established by the department, to promote the successful transition for youth to complete housing self-sufficiency over time;

(f) Ensure that the independent youth housing program is integrated and aligned with other state rental assistance and case management programs operated by the department, as well as case management and supportive services programs, including the independent living program, the transitional living program, and other related programs offered by the department of social and health services; and

(g) Consult with the department of social and health services and other stakeholders involved with dependent youth, homeless youth, and homeless young adults, as appropriate.

(2) The department of social and health services shall collaborate with the department in implementing and operating the independent youth housing program including, but not limited to, the following:

(a) Refer potential eligible youth to the department before the youth's eighteenth birthday, if feasible, to include an indication, if known, of where the youth plans to reside after aging out of foster care;

(b) Provide information to all youth aged fifteen or older, who are dependents of the state under chapter 13.34 RCW, about the independent youth housing program, encouraging dependents nearing their eighteenth birthday to consider applying for enrollment in the program;

(c) Encourage organizations participating in the independent living program and the transitional living program to collaborate with independent youth housing program providers whenever possible to capitalize on resources and provide the greatest amount and variety of services to eligible youth;

(d) Annually provide to the department data reflecting changes in the percentage of youth aging out of the state dependency system each year who are eligible for state assistance, as well as any other data and performance measures

that may assist the department to measure program success; and

(e) Annually, beginning by December 31, 2007, provide to the appropriate committees of the legislature and the inter-agency council on homelessness as described under RCW 43.185C.170 recommendations of strategies to reach the goals described in RCW 43.63A.311(2)(g).

(3) Under the independent youth housing program, subcontractor organizations shall:

(a) Use moneys awarded to the organizations for housing stipends, security deposits, first and last month's rent stipends, case management program costs, and administrative costs. When subcontractor organizations determine that it is necessary to assist participating youth in accessing and maintaining independent housing, subcontractor organizations may also use moneys awarded to pay for professional mental health services and tuition costs for court-ordered classes and programs;

(i) Administrative costs for each subcontractor organization may not exceed twelve percent of the estimated total annual grant amount to the subcontractor organization;

(ii) All housing stipends, security deposits, and first and last month's rent stipends must be payable only to a landlord or housing manager of any type of independent housing;

(b) Enroll eligible youth who are referred by the department and who choose to reside in their assigned service area;

(c) Enter eligible youth program participants into the [Washington] homeless client management information system as described in RCW 43.185C.180;

(d) Monitor participating youth's housing status;

(e) Evaluate participating youth's eligibility and compliance with department policies and procedures at least twice a year;

(f) Assist participating youth to develop or update an independent living plan focused on obtaining and retaining independent housing or collaborate with a case manager with whom the youth is already involved to ensure that the youth has an independent living plan;

(g) Educate participating youth on tenant rights and responsibilities;

(h) Provide support to participating youth in the form of general case management and information and referral services, when necessary, or collaborate with a case manager with whom the youth is already involved to ensure that the youth is receiving the case management and information and referral services needed;

(i) Connect participating youth, when possible, with individual development account programs, other financial literacy programs, and other programs that are designed to help young people acquire economic independence and self-sufficiency, or collaborate with a case manager with whom the youth is already involved to ensure that the youth is receiving information and referrals to these programs, when appropriate;

(j) Submit expenditure and performance reports, including information related to the performance measures in RCW 43.63A.311, to the department on a time schedule determined by the department; and

(k) Provide recommendations to the department regarding program improvements and strategies that might assist

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the state to reach its goals as described in RCW 43.63A.311(2)(g). [2009 c 148 § 1; 2007 c 316 § 3.]

Finding—2007 c 316: "(1) The legislature finds that providing needy youth aging out of the state dependency system with safe and viable options for housing to avoid homelessness confers a valuable benefit on the public that is intended to improve public health, safety, and welfare.

(2) It is the goal of this state to:

(a) Ensure that all youth aging out of the state dependency system have access to a decent, appropriate, and affordable home in a healthy safe environment to prevent such young people from experiencing homelessness; and

(b) Reduce each year the percentage of young people eligible for state assistance upon aging out of the state dependency system." [2007 c 316 § 1.]

43.63A.307 Independent youth housing program—Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Eligible youth" means an individual who:

(a) On or after September 1, 2006, is at least eighteen, was a dependent of the state under chapter 13.34 RCW at any time before his or her eighteenth birthday, and has not yet reached the age of 25;

(b) Except as provided in RCW 43.63A.309(2)(a), has a total income from all sources, except for temporary sources that include, but are not limited to, overtime wages, bonuses, or short-term temporary assignments, that does not exceed fifty percent of the area median income;

(c) Complies with other eligibility requirements the department may establish.

(3) "Fair market rent" means the fair market rent in each county of the state, as determined by the United States department of housing and urban development.

(4) "Independent housing" means a housing unit that is not owned by or located within the home of the eligible youth's biological parents or any of the eligible youth's former foster care families or dependency guardians. "Independent housing" may include a unit in a transitional or other supportive housing facility.

(5) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual that are matched with contributions by or through the sponsoring organization.

(6) "Subcontractor organization" means an eligible organization described under RCW 43.185A.040 that contracts with the department to administer the independent youth housing program. [2022 c 154 § 1; 2009 c 148 § 2; 2007 c 316 § 2.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.309 Independent youth housing program—Eligible youth—Participation. (1) An eligible youth participating in the independent youth housing program must:

(a) Sign a program compliance agreement stating that the youth agrees to:

(i) Timely pay his or her portion of the independent housing cost;

(ii) Comply with an independent living plan; and

(iii) Comply with other program requirements and policies the department may establish; and

(b) Maintain his or her status as an eligible youth, except as provided in subsection (2) of this section.

(2) The department shall establish policies and procedures to allow the youth to remain in the program and continue to receive a housing stipend if the youth's total income exceeds fifty percent of the area median income during the course of his or her participation in the program. The policies must require the youth to:

(a) Participate in the individual development account program established under RCW 43.31.460 and invest a portion, to be determined by the department, of his or her income that exceeds fifty percent of the area median income in an individual development account; or

(b) If the youth is unable to participate in the individual development account program due to the program's capacity limits or eligibility requirements, participate in an alternate supervised savings program approved by the department, as long as the youth qualifies for and may participate in this savings program.

(3) An eligible youth may participate in the independent youth housing program for any duration of time and may apply to enroll in the program with the department at any time.

(4)(a) A youth may be terminated from the independent youth housing program for a violation of department policies.

(b) Youth who are terminated from the program may apply to the department for reenrollment in the program through a procedure to be developed by the department. The department shall establish criteria to evaluate a reenrollment application and may accept or deny a reenrollment application based on the department's evaluation. [2007 c 316 § 4.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.311 Independent youth housing program—Subcontractor organization performance review and report. Beginning in 2007, the department must annually review and report on the performance of subcontractor organizations participating in the independent youth housing program, as well as the performance of the program as a whole.

(1) Reporting should be within the context of the state homeless housing strategic plan under RCW 43.185C.040 and any other relevant state or local homeless or affordable housing plans. The outcomes of the independent youth housing program must be included in the measurement of any performance measures described in chapter 43.185C RCW.

(2) The independent youth housing program report must include, at a minimum, an update on the following program performance measures, as well as any other performance measures the department may establish, for enrolled youth in consultation with the department of social and health services, to be measured statewide and by county:

(a) Increases in housing stability;

(b) Increases in economic self-sufficiency;

(c) Increases in independent living skills;

(d) Increases in education and job training attainment;

(e) Decreases in the use of all state-funded services over time;

(f) Decreases in the percentage of youth aging out of the state dependency system each year who are eligible for state assistance as reported to the department by the department of social and health services; and

(g) Recommendations to the legislature and to the inter-agency council on homelessness as described under RCW 43.185C.170 on program improvements and on departmental strategies that might assist the state to reach its goals of:

(i) Ensuring that all youth aging out of the state dependency system have access to a decent, appropriate, and affordable home in a healthy safe environment to prevent such youth from experiencing homelessness; and

(ii) Reducing each year the percentage of young people eligible for state assistance upon aging out of the state dependency system. [2007 c 316 § 5.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.313 Independent youth housing program—Limitations. Chapter 316, Laws of 2007 does not create:

(1) An entitlement to services;

(2) Judicial authority to (a) extend the jurisdiction of juvenile court in a proceeding under chapter 13.34 RCW to a youth who has reached the age of eighteen or (b) order the provision of services to the youth; or

(3) A private right of action or claim on the part of any individual, entity, or agency against the department, the department of social and health services, or any contractor of the departments. [2007 c 316 § 6.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.315 Independent youth housing account. The independent youth housing account is created in the state treasury. All revenue directed to the independent youth housing program must be deposited into this account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for the independent youth housing program as described in RCW 43.63A.305. [2007 c 316 § 7.]

Finding—2007 c 316: See note following RCW 43.63A.305.

43.63A.400 Grants to public broadcast stations. The *department of community, trade, and economic development shall distribute grants to eligible public radio and television broadcast stations under RCW 43.63A.410 and 43.63A.420 to assist with programming, operations, and capital needs. [1993 c 280 § 72; 1987 c 308 § 2.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1987 c 308: "The legislature finds that public broadcasting creates a cultural and educational environment that is important to the citizens of the state. The legislature also finds that it is in the public interest to provide state support to bring cultural, educational, and public affairs broadcasting services to the citizens of the state." [1987 c 308 § 1.]

Additional notes found at www.leg.wa.gov

43.63A.410 Grants to broadcast stations eligible for grants from corporation for public broadcasting—Formula—Annual financial statements. (1) Eligibility for grants under this section shall be limited to broadcast stations which are:

(a) Licensed to Washington state organizations, non-profit corporations, or other entities under section 73.621 of the regulations of the federal communications commission; and

(b) Qualified to receive community service grants from the federally chartered corporation for public broadcasting. Eligibility shall be established as of February 28th of each year.

(2) The formula in this subsection shall be used to compute the amount of each eligible station's grant under this section.

(a) Appropriations under this section shall be divided into a radio fund, which shall be twenty-five percent of the total appropriation under this section, and a television fund, which shall be seventy-five percent of the total appropriation under this section. Each of the two funds shall be divided into a base grant pool, which shall be fifty percent of the fund, and an incentive grant pool, which shall be the remaining fifty percent of the fund.

(b) Each eligible participating public radio station shall receive an equal share of the radio base grant pool, plus a share of the radio incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating radio stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(c) Each eligible participating public television station shall receive an equal share of the television base grant pool, plus a share of the television incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating television stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(3) Annual financial reports to the corporation for public broadcasting by eligible stations shall also be submitted by the stations to the *department of community, trade, and economic development. [1993 c 280 § 73; 1987 c 308 § 3.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

Additional notes found at www.leg.wa.gov

43.63A.420 Grants to other broadcast stations—Eligibility—Amounts. (1) Eligibility for grants under this section shall be limited to broadcast stations that:

(a) Have a noncommercial educational license granted by the federal communications commission;

(b) Are not eligible under RCW 43.63A.410;

(c) Have a permanent employee who is assigned operational management responsibility for the station and who is not compensated with moneys granted under this section;

(d) Meet the operating schedule requirements of the station's federal broadcast license;

(e) Have facilities and equipment that allow for program origination and production;

(f) Have a daily broadcast schedule devoted primarily to serving the educational, informational, and cultural needs of the community within its primary service area. The programming shall be intended for a general audience and not designed to further a particular religious philosophy or political organization;

(g) Originate a locally produced program service designed to serve the community;

(h) Maintain financial records in accordance with generally accepted accounting principles; and

(i) Complete an eligibility criteria statement and annual financial survey pursuant to rules adopted by the *department of community development.

(2)(a) A grant of up to ten thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(b) A grant of up to eight thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities not fully developed under federal communications commission rules.

(c) A grant of up to five thousand dollars per year may be made under this section to those eligible stations operating less than twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(d) A grant of up to one thousand five hundred dollars per year may be made under this section to those eligible stations not meeting the requirements of (a), (b), or (c) of this subsection.

(3) Funding received under this section is specifically for the support of public broadcast operations and facilities improvements which benefit the general community. No funds received under this section may be used for any other purposes by licensees of eligible stations.

(4) Any portion of the appropriation not expended under this section shall be transferred for expenditure under RCW 43.63A.410. [1987 c 308 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

43.63A.470 Manufactured housing—Inspections, investigations. (Contingent expiration date.) (1) The director or the director's authorized representative shall conduct such inspections and investigations as may be necessary to implement or enforce manufactured housing rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For the purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge shall:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and

Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Each inspection shall be commenced and completed with reasonable promptness.

(3) For the purpose of carrying out the provisions of this chapter, the director or the director's authorized representative is authorized:

(a) To require, by general or special orders, any factory, warehouse, or establishment in which manufactured homes are manufactured, to file, in such form as prescribed, reports or answers in writing to specific questions relating to any function of the department under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the department within such reasonable time periods as prescribed by the department; and

(b) To hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the director or such officer or employee deems advisable.

(4) In carrying out the inspections authorized by this section the director shall establish by rule, under chapter 34.05 RCW, and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections, provided these fees are set in accordance with guidelines established by the United States secretary of housing and urban development. [1993 c 124 § 5.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.475 Manufactured housing—Rules. (Contingent expiration date.) The department shall adopt all rules under chapter 34.05 RCW necessary to implement chapter 124, Laws of 1993, giving due consideration to standards and regulations adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured housing construction and safety standards. [1993 c 124 § 2.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.480 Manufactured housing—Hearing procedures. (Contingent expiration date.) The department shall adopt appropriate hearing procedures under chapter 34.05 RCW for the holding of formal and informal presentation of views, giving due consideration to hearing procedures adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). [1993 c 124 § 3.]

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.485 Manufactured housing—Violations—Fines. (Contingent expiration date.) (1) A person who violates any of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW

43.22A.030, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.22A.030, 43.63A.470, 43.63A.475, and 43.63A.480 is liable to the state of Washington for a civil penalty of not to exceed one thousand dollars for each such violation. Each violation of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW 43.22A.030, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.22A.030, 43.63A.470, 43.63A.475, and 43.63A.480, shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(2) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates any of the provisions of RCW 43.22A.030, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.22A.030, 43.63A.470, 43.63A.475, and 43.63A.480, in a manner that threatens the health or safety of any purchaser, shall be fined not more than one thousand dollars or imprisoned up to three hundred sixty-four days, or both.

(3) Any legal fees, court costs, expert witness fees, and staff costs expended by the state in successfully pursuing violators of RCW 43.22A.030, 43.63A.470, 43.63A.475, and 43.63A.480 shall be reimbursed in full by the violators. [2011 c 96 § 29; 1993 c 124 § 4.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

Contingent expiration date—RCW 43.22A.030 and 43.63A.470 through 43.63A.490: See RCW 43.63A.490.

43.63A.490 Manufactured housing—Contingent expiration date. RCW *43.63A.465 through 43.63A.490 shall expire and be of no force and effect on January 1 in any year following the failure of the United States department of housing and urban development to reimburse the state for the duties described in RCW *43.63A.465 through 43.63A.490. [1993 c 124 § 6.]

***Reviser's note:** RCW 43.63A.465 was recodified as RCW 43.22A.030 pursuant to 2007 c 432 § 13.

43.63A.500 Farmworker housing construction manuals and plans. The department shall develop, and make available to the public, model or prototype construction plans and manuals for several types of farmworker housing, including but not limited to seasonal housing for individuals and families, campgrounds, and recreational vehicle parks. Any person or organization intending to construct farmworker housing may adopt one or more of these models as the plan for the proposed housing. [1990 c 253 § 5.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.340.

43.63A.505 Agricultural employee housing—One-stop clearinghouse. The department shall establish and administer a "one-stop clearinghouse" to coordinate state assistance for growers and nonprofit organizations in developing housing for agricultural employees. Growers, housing authorities, and nonprofit organizations shall have direct

access to the one-stop clearinghouse. The department one-stop clearinghouse shall provide assistance on planning and design, building codes, temporary worker housing regulations, financing options, and management to growers and nonprofit organizations interested in farmworker construction. The department one-stop clearinghouse shall also provide educational materials and services to local government authorities on Washington state law concerning farmworker housing. [1999 c 164 § 202.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.63A.510 Affordable housing—Inventory of state-owned land. (1) The department must work with the designated agencies to identify, catalog, and recommend best use of under-utilized, state-owned land and property suitable for the development of affordable housing for very low-income, low-income or moderate-income households. The designated agencies must provide an inventory of real property that is owned or administered by each agency and is vacant or available for lease or sale. The department must work with the designated agencies to include in the inventories a consolidated list of any property transactions executed by the agencies under the authority of RCW 39.33.015, including the property appraisal, the terms and conditions of sale, lease, or transfer, the value of the public benefit, and the impact of transaction to the agency. The inventories with revisions must be provided to the department by November 1st of each year.

(2) The department must consolidate inventories into two groups: Properties suitable for consideration in affordable housing development; and properties not suitable for consideration in affordable housing development. In making this determination, the department must use industry accepted standards such as: Location, approximate lot size, current land use designation, and current zoning classification of the property. The department shall provide a recommendation, based on this grouping, to the office of financial management and appropriate policy and fiscal committees of the legislature by December 1st of each year.

(3) Upon written request, the department shall provide a copy of the inventory of state-owned and publicly owned lands and buildings to parties interested in developing the sites for affordable housing.

(4) As used in this section:

(a) "Affordable housing" means residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household or who is from a special needs population, and whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(b) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income, adjusted for household size, for the county where the affordable housing is located.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is more than fifty percent but is at or below eighty percent of the median income where the affordable housing is located.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose income is more than eighty percent but is at or below one hundred fifteen percent of the median income where the affordable housing is located.

(e) "Affordable housing development" means state-owned real property appropriate for sale, transfer, or lease to an affordable housing developer capable of:

(i) Receiving the property within one hundred eighty days; and

(ii) Creating affordable housing units for occupancy within thirty-six months from the time of transfer.

(f) "Designated agencies" means the Washington state patrol, the state parks and recreation commission, and the departments of natural resources, social and health services, corrections, and enterprise services. [2018 c 217 § 1; 1993 c 461 § 2; 1990 c 253 § 6.]

Finding—1993 c 461: "(1) The legislature finds that:

(a) The lack of affordable housing for very low-income, low-income, or moderate-income households and special needs populations is intensified by the rising cost of land and construction; and

(b) There are publicly owned land and buildings which may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing.

(2) The legislature declares that the purpose of this act is to:

(a) Provide for an analysis of the inventory of state-owned lands and buildings prepared by the departments of natural resources, transportation, corrections, and *general administration;

(b) Identify other publicly owned land and buildings that may be suitable for the development of affordable housing for very-low income, low-income, or moderate-income households and special needs populations;

(c) Provide a central location of inventories of state and publicly owned land and buildings that may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing; and

(d) Encourage an effective use of publicly owned surplus and underutilized land and buildings suitable for the development of affordable housing for very low-income, low-income, or moderate-income households and special needs populations." [1993 c 461 § 1.]

***Reviser's note:** The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 § 107.

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.340.

43.63A.550 Growth management—Inventorying and collecting data. (1) The department shall assist in the process of inventorying and collecting data on public and private land for the acquisition of data describing land uses, demographics, infrastructure, critical areas, transportation corridors physical features, housing, and other information useful in managing growth throughout the state. For this purpose the department may contract with the consolidated technology services agency and shall form an advisory group consisting of representatives from state, local, and federal agencies, colleges and universities, and private firms with expertise in land planning, and geographic information systems.

(2) The department shall establish a sequence for acquiring data, giving priority to rapidly growing areas. The data shall be retained in a manner to facilitate its use in preparing maps, aggregating with data from multiple jurisdictions, and comparing changes over time. Data shall further be retained in a manner which permits its access via computer.

(3) The department shall work with other state agencies, local governments, and private organizations that are inventorying public and private lands to ensure close coordination and to ensure that duplication of efforts does not occur.

[2011 1st sp.s. c 43 § 814; 1998 c 245 § 71; 1990 1st ex.s. c 17 § 21.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.63A.610 Emergency mortgage assistance—Guidelines. Emergency mortgage assistance shall be provided under the following general guidelines:

(1) Loans provided under the program shall not exceed an amount equal to twenty-four months of mortgage payments.

(2) The maximum loan amount allowed under the program shall not exceed twenty thousand dollars.

(3) Loans shall be made to applicants who meet specific income guidelines established by the department.

(4) Loan payments shall be made directly to the mortgage lender.

(5) Loans shall be granted on a first-come, first-served basis.

(6) Repayment of loans provided under the program shall be made to eligible local organizations, and must not take more than twenty years. Funds repaid to the program shall be used as grants or loans under the provisions of RCW *43.63A.600 through 43.63A.640. [1994 c 114 § 2; 1991 c 315 § 24.]

***Reviser's note:** RCW 43.63A.600 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Intent—1991 c 315: See note following RCW 28B.50.030.

Additional notes found at www.leg.wa.gov

43.63A.620 Emergency rental assistance—Guidelines. Emergency rental assistance shall be provided under the following general guidelines:

(1) Rental assistance provided under the program may be in the form of loans or grants and shall not exceed an amount equal to twenty-four months of rental payments.

(2) Rental assistance shall be made to applicants who meet specific income guidelines established by the department.

(3) Rental payments shall be made directly to the landlord.

(4) Rental assistance shall be granted on a first-come, first-served basis. [1994 c 114 § 3; 1991 c 315 § 25.]

Intent—1991 c 315: See note following RCW 28B.50.030.

Additional notes found at www.leg.wa.gov

43.63A.630 Emergency mortgage and rental assistance program—Eligibility. To be eligible for assistance under the program, an applicant must:

(1) Be unable to keep mortgage or rental payments current, due to a loss of employment, and shall be at significant risk of eviction;

(2) Have his or her permanent residence located in an eligible community;

(3) If requesting emergency mortgage assistance, be the owner of an equitable interest in the permanent residence and intend to reside in the home being financed;

(4) Be actively seeking new employment or be enrolled in a training program approved by the director; and

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(5) Submit an application for assistance to an organization eligible to receive funds under *RCW 43.63A.600. [1994 c 114 § 4; 1991 c 315 § 26.]

***Reviser's note:** RCW 43.63A.600 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Intent—1991 c 315: See note following RCW 28B.50.030.

Additional notes found at www.leg.wa.gov

43.63A.640 Emergency mortgage and rental assistance program—Duties—Interest rate, assignment, eligibility. The department shall carry out the following duties:

(1) Administer the program;

(2) Identify organizations eligible to receive funds to implement the program;

(3) Develop and adopt the necessary rules and procedures for implementation of the program and for dispersal [disbursal] of program funds to eligible organizations;

(4) Establish the interest rate for repayment of loans at two percent below the market rate;

(5) Work with lending institutions and social service providers in the eligible communities to assure that all eligible persons are informed about the program;

(6) Utilize federal and state programs that complement or facilitate carrying out the program;

(7) Ensure that local eligible organizations that dissolve or become ineligible assign their program funds, rights to loan repayments, and loan security instruments, to the government of the county in which the local organization is located. If the county government accepts the program assets described in this subsection, it shall act as a local eligible organization under the provisions of RCW *43.63A.600 through 43.63A.640. If the county government declines to participate, the program assets shall revert to the department. [1994 c 114 § 5; 1991 c 315 § 27.]

***Reviser's note:** RCW 43.63A.600 was repealed by 1995 c 226 § 35, effective June 30, 2001.

Intent—1991 c 315: See note following RCW 28B.50.030.

Additional notes found at www.leg.wa.gov

43.63A.645 Emergency housing programs—Rules.

The department shall, by rule, establish program standards, eligibility standards, eligibility criteria, and administrative rules for emergency housing programs and specify other benefits that may arise in consultation with providers. [1999 c 267 § 5.]

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.63A.650 Housing—Department's responsibilities.

(1) The department shall be the principal state department responsible for coordinating federal and state resources and activities in housing, except for programs administered by the Washington state housing finance commission under chapter 43.180 RCW, and for evaluating the operations and accomplishments of other state departments and agencies as they affect housing.

(2) The department shall work with local governments, tribal organizations, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or statewide nonprofit housing assistance organizations, for the

purpose of coordinating federal and state resources with local resources for housing.

(3) The department shall be the principal state department responsible for providing shelter and housing services to homeless families with children. The department shall have the principal responsibility to coordinate, plan, and oversee the state's activities for developing a coordinated and comprehensive plan to serve homeless families with children. The plan shall be developed collaboratively with the department of social and health services. The department shall include community organizations involved in the delivery of services to homeless families with children, and experts in the development and ongoing evaluation of the plan. The department shall follow professionally recognized standards and procedures. The plan shall be implemented within amounts appropriated by the legislature for that specific purpose in the operating and capital budgets. The department shall submit the plan to the appropriate committees of the senate and house of representatives no later than September 1, 1999, and shall update the plan and submit it to the appropriate committees of the legislature by January 1st of every odd-numbered year through 2007. The plan shall address at least the following: (a) The need for prevention assistance; (b) the need for emergency shelter; (c) the need for transitional assistance to aid families into permanent housing; (d) the need for linking services with shelter or housing; and (e) the need for ongoing monitoring of the efficiency and effectiveness of the plan's design and implementation. [1999 c 267 § 3; 1993 c 478 § 13.]

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.63A.660 Housing—Technical assistance and information, affordable housing. The department shall provide technical assistance and information to state agencies and local governments to assist in the identification and removal of regulatory barriers to the development and placement of affordable housing. In providing assistance the department may:

- (1) Analyze the costs and benefits of state legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;
- (2) Analyze the costs and benefits of local legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;
- (3) Assist state agencies and local governments in determining the impact of existing and anticipated actions, legislation, and rules on the development and placement of affordable housing;
- (4) Investigate techniques and opportunities for reducing the life-cycle housing costs through regulatory reform;
- (5) Develop model standards and ordinances designed to reduce regulatory barriers to affordable housing and assisting in their adoption and use at the state and local government level;
- (6) Provide technical assistance and information to state agencies and local governments for implementation of legislative and administrative reform programs to remove barriers to affordable housing;
- (7) Prepare state regulatory barrier removal strategies;

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(8) Provide staffing to the affordable housing advisory board created in RCW 43.185B.020; and

(9) Perform other activities as the director deems necessary to assist the state, local governments, and the housing industry in meeting the affordable housing needs of the state. [1993 c 478 § 14.]

43.63A.670 Home-matching program—Finding, purpose. (1) The legislature finds that:

- (a) The trend toward smaller household sizes will continue into the foreseeable future;
- (b) Many of these households are in housing units that contain more bedrooms than occupants;
- (c) There are older homeowners on relatively low, fixed income who are experiencing difficulties maintaining their homes; and
- (d) There are single parents, recently widowed persons, people in the midst of divorce or separation, and persons with disabilities that are faced with displacement due to the high cost of housing.

(2) The legislature declares that the purpose of RCW 43.63A.680 is to develop a pilot program designed to:

- (a) Provide home-matching services that can enable people to continue living in their homes while promoting continuity of homeownership and community stability; and
- (b) Counter the problem of displacement among people on relatively low, fixed incomes by linking people offering living space with people seeking housing. [2020 c 274 § 24; 1993 c 478 § 18.]

43.63A.680 Home-matching program—Pilot programs. (1) The department may develop and administer a home-matching program for the purpose of providing grants and technical assistance to eligible organizations to operate local home-matching programs. For purposes of this section, "eligible organizations" are those organizations eligible to receive assistance through the Washington housing trust fund, chapter 43.185 RCW.

(2) The department may select up to five eligible organizations for the purpose of implementing a local home-matching program. The local home-matching programs are designed to facilitate: (a) Intergenerational homesharing involving older homeowners sharing homes with younger persons; (b) homesharing arrangements that involve an exchange of services such as cooking, housework, gardening, or babysitting for room and board or some financial consideration such as rent; and (c) the more efficient use of available housing.

(3) In selecting local pilot programs under this section, the department shall consider:

- (a) The eligible organization's ability, stability, and resources to implement the local home-matching program;
- (b) The eligible organization's efforts to coordinate other support services needed by the individual or family participating in the local home-matching program; and
- (c) Other factors the department deems appropriate.

(4) The eligible organizations shall establish criteria for participation in the local home-matching program. The eligible organization shall make a determination of eligibility regarding the individuals' or families' participation in the local home-matching program. The determination shall

include, but is not limited to a verification of the individual's or family's history of making rent payments in a consistent and timely manner. [1993 c 478 § 19.]

43.63A.690 Minority and women-owned business enterprises—Linked deposit program. (1) The department shall provide technical assistance and loan packaging services that enable minority and women-owned business enterprises to obtain financing under the linked deposit program created under RCW 43.86A.060.

(2) The department, in consultation with the office of minority and women's business enterprises, shall develop indicators to measure the performance of the linked deposit program in the areas of job creation or retention and providing access to capital to minority or women's business enterprises. [2005 c 302 § 6; 2002 c 305 § 3; 1993 c 512 § 31.]

Intent—2005 c 302: See note following RCW 43.86A.030.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

43.63A.720 Prostitution prevention and intervention services—Grant program. There is established in the *department of community, trade, and economic development a grant program to enhance funding for prostitution prevention and intervention services. Activities that can be funded through this grant program shall provide effective prostitution prevention and intervention services, such as counseling, parenting, housing relief, education, and vocational training, that:

(1) Comprehensively address the problems of persons who are prostitutes; and

(2) Enhance the ability of persons to leave or avoid prostitution. [1995 c 353 § 7.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.63A.725 Prostitution prevention and intervention grants—Eligibility. (1) Applications for funding under this chapter must:

(a) Meet the criteria in RCW 43.63A.720; and

(b) Contain evidence of active participation of the community and its commitment to providing effective prevention and intervention services for prostitutes through the participation of local governments, tribal governments, networks under chapter 70.190 RCW, human service and health organizations, and treatment entities and through meaningful involvement of others, including citizen groups.

(2) Local governments, networks under chapter 70.190 RCW, nonprofit community groups, and nonprofit treatment providers including organizations that provide services, such as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants established under RCW 43.63A.720. [1995 c 353 § 8.]

43.63A.730 Prostitution prevention and intervention grants—Applications, contents. At a minimum, grant applications must include the following:

(1) The proposed geographic service area;

(2) A description of the extent and effect of the needs for prostitution prevention and intervention within the relevant geographic area;

(3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;

(4) An explanation of what organizations were involved in the development of the proposal; and

(5) The methods that will be employed to measure the success of the program. [1995 c 353 § 9.]

43.63A.735 Prostitution prevention and intervention grants—Award and use. (1) Subject to funds appropriated by the legislature, including funds in the prostitution prevention and intervention account, the *department of community, trade, and economic development shall make awards under the grant program established by RCW 43.63A.720.

(2) Awards shall be made competitively based on the purposes of and criteria in RCW 43.63A.720 through 43.63A.730.

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding of a program or activity under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding.

(4) The *department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the grant program established under RCW 43.63A.720 and expend the same or any income from these sources according to the terms of the gifts, grants, or endowments.

(5) The *department of community, trade, and economic development may expend up to five percent of the funds appropriated for the grant program for administrative costs and grant supervision. [1995 c 353 § 10.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.63A.740 Prostitution prevention and intervention account. The prostitution prevention and intervention account is created in the state treasury. Expenditures from the account may be used in the following order of priority:

(1) Funding the statewide coordinating committee on sex trafficking;

(2) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;

(3) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;

(4) Funding for services specified in RCW *74.14B.060 and 74.14B.070 for sexually exploited children; and

(5) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720. [2013 c 121 § 3; 2010 c 289 § 18; 2009 c 387 § 2; 1995 c 353 § 11.]

***Reviser's note:** RCW 74.14B.060 was repealed by 2012 c 29 § 14.

Intent—Finding—2013 c 121: See note following RCW 43.280.091.

43.63A.750 Performing arts, art museums, cultural facilities—Competitive grant program for nonprofit organizations. (1) A competitive grant program to assist nonprofit organizations in acquiring, constructing, or rehabilitating performing arts, art museums, and cultural facilities is created.

(2)(a) The department shall submit a list of recommended performing arts, art museum projects, and cultural organization projects eligible for funding to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. The list, in priority order, shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed \$18,000,000.

(b) The department shall establish a competitive process to prioritize applications for state assistance as follows:

(i) The department shall conduct a statewide solicitation of project applications from nonprofit organizations, local governments, and other entities, as determined by the department. The department shall evaluate and rank applications in consultation with a citizen advisory committee, including a representative from the state arts commission, using objective criteria. The evaluation and ranking process shall also consider local community support for projects and an examination of existing assets that applicants may apply to projects.

(ii) The department may establish the amount of state grant assistance for individual project applications but the amount shall not exceed thirty-three and one-third percent of the estimated total capital cost or actual cost of a project, whichever is less. The remaining portions of the project capital cost shall be a match from nonstate sources. The nonstate match may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department is authorized to set matching requirements for individual projects. State assistance may be used to fund separate definable phases of a project if the project demonstrates adequate progress and has secured the necessary match funding.

(iii) The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the department shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant. [2022 c 121 § 1; 2021 c 332 § 7042; 2020 c 356 § 7008; 2006 c 371 § 235; 2005 c 160 § 2; 1999 c 295 § 1.]

Effective date—2021 c 332: See note following RCW 43.19.501.

Effective date—2020 c 356: See note following RCW 43.19.501.

Additional notes found at www.leg.wa.gov

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43.63A.764 Building communities fund program—Definitions. The definitions in this section apply throughout RCW 43.63A.125, this section, and RCW 43.63A.766 and 43.63A.768 unless the context clearly requires otherwise.

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

(2) "Distressed community" means: (a) A county that has an unemployment rate that is twenty percent above the state average for the immediately previous three years; (b) an area within a county that the department determines to be a low-income community, using as guidance the low-income community designations under the community development financial institutions fund's new markets tax credit program of the United States department of the treasury; or (c) a school district in which at least fifty percent of local elementary students receive free and reduced-price meals.

(3) "Nonprofit organization" means an organization that is tax exempt, or not required to apply for an exemption, under section 501(c)(3) of the federal internal revenue code of 1986, as amended.

(4) "Technical assistance" means professional services provided under contract to nonprofit organizations for feasibility studies, planning, and project management related to acquiring, constructing, or rehabilitating nonresidential community services facilities. [2008 c 327 § 13.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.63A.766 Building communities fund account. The building communities fund account is created in the state treasury. The account shall consist of legislative appropriations and gifts, grants, or endowments from other sources as permitted by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for capital and technical assistance grants as provided in RCW 43.63A.125. [2008 c 327 § 14.]

43.63A.768 Building communities fund program—Accountability and reporting standards—Annual report.

(1) The department shall develop accountability and reporting standards for grant recipients. At a minimum, the department shall use the criteria listed in RCW 43.63A.125(2)(b) to evaluate the progress of each grant recipient.

(2) Beginning January 1, 2011, the department shall submit an annual report to the appropriate committees of the legislature, including:

(a) A list of projects currently under contract with the department under the building communities fund program; a description of each project, its total cost, the amount of state funding awarded and expended to date, the project status, the number of low-income people served, and the extent to which the project has met the criteria in RCW 43.63A.125(2)(b); and

(b) Recommendations, if any, for policy and programmatic changes to the building communities fund program to better achieve program objectives. [2008 c 327 § 16.]

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Chapter 43.70 RCW
DEPARTMENT OF HEALTH

Sections

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- 43.70.845 Lead contamination in drinking water in school buildings—Department of health as lead agency—Waiver.
- 43.70.850 Suicide-safer homes task force.
- 43.70.900 References to the secretary or department of social and health services—1989 1st ex.s. c 9.
- 43.70.901 References to the director or department of licensing—1989 1st ex.s. c 9.
- 43.70.902 References to the hospital commission—1989 1st ex.s. c 9.
- 43.70.910 Effective date—1989 1st ex.s. c 9.
- 43.70.920 Severability—1989 1st ex.s. c 9.

Comprehensive sexual health education, departmental duties: RCW 28A.300.475.

Health, board of: Chapter 43.20 RCW.

Immunization program, departmental participation: RCW 28A.210.060 through 28A.210.170.

Interagency agreement on fetal alcohol exposure programs: RCW 71.24.610.

Visual and auditory screening of pupils, data transferred to secretary: RCW 28A.210.030.

43.70.005 Intent. The legislature finds and declares that it is of importance to the people of Washington state to live in a healthy environment and to expect a minimum standard of quality in health care. The legislature further finds that the social and economic vitality of the state depends on a healthy and productive population. The legislature further

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declares where it is a duty of the state to assure a healthy environment and minimum standards of quality in health care facilities and among health care professionals, the ultimate responsibility for a healthy society lies with the citizens themselves.

For these reasons, the legislature recognizes the need for a strong, clear focus on health issues in state government and among state health agencies to give expression to the needs of individual citizens and local communities as they seek to preserve the public health. It is the intent of the legislature to form such focus by creating a single department in state government with the primary responsibilities for the preservation of public health, monitoring health care costs, the maintenance of minimal standards for quality in health care delivery, and the general oversight and planning for all the state's activities as they relate to the health of its citizenry.

Further, it is the intent of the legislature to improve illness and injury prevention and health promotion, and restore the confidence of the citizenry in the efficient and accountable expenditure of public funds on health activities that further the mission of the agency via grants and contracts, and to ensure that this new health agency delivers quality health services in an efficient, effective, and economical manner that is faithful and responsive to policies established by the legislature. [2005 c 32 § 1; 1989 1st ex.s. c 9 § 101.]

43.70.010 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Assessment" means the regular collection, analysis, and sharing of information about health conditions, risks, and resources in a community. Assessment activities identify trends in illness, injury, and death and the factors that may cause these events. They also identify environmental risk factors, community concerns, community health resources, and the use of health services. Assessment includes gathering statistical data as well as conducting epidemiologic and other investigations and evaluations of health emergencies and specific ongoing health problems;

(2) "Board" means the state board of health;

(3) "Department" means the department of health;

(4) "Policy development" means the establishment of social norms, organizational guidelines, operational procedures, rules, ordinances, or statutes that promote health or prevent injury, illness, or death; and

(5) "Secretary" means the secretary of health. [1995 c 269 § 2201; 1994 sp.s. c 7 § 206; 1989 1st ex.s. c 9 § 102.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.70.020 Department created. (1) There is hereby created a department of state government to be known as the department of health. The department shall be vested with all powers and duties transferred to it by chapter 9, Laws of 1989 1st ex. sess. and such other powers and duties as may be authorized by law. The main administrative office of the department shall be located in the city of Olympia. The secretary may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the department, and if consistent with the principles set forth in subsection (2) of this section.

(2) The department of health shall be organized consistent with the goals of providing state government with a focus in health and serving the people of this state. The legislature recognizes that the secretary needs sufficient organizational flexibility to carry out the department's various duties. To the extent practical, the secretary shall consider the following organizational principles:

- (a) Clear lines of authority which avoid functional duplication within and between subelements of the department;
 - (b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public;
 - (c) Maximum span of control without jeopardizing adequate supervision;
 - (d) A substate or regional organizational structure for the department's health service delivery programs and activities that encourages joint working agreements with local health departments and that is consistent between programs;
 - (e) Decentralized authority and responsibility, with clear accountability;
 - (f) A single point of access for persons receiving like services from the department which would limit the number of referrals between divisions.
- (3) The department shall provide leadership and coordination in identifying and resolving threats to the public health by:
- (a) Working with local health departments and local governments to strengthen the state and local governmental partnership in providing public protection;
 - (b) Developing intervention strategies;
 - (c) Providing expert advice to the executive and legislative branches of state government;
 - (d) Providing active and fair enforcement of rules;
 - (e) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing health preservation measures;
 - (f) Providing information to the public; and
 - (g) Carrying out such other related actions as may be appropriate to this purpose.
- (4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment by the department's clients before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the secretary may create such administrative divisions, offices, bureaus, and programs within the department as the secretary deems necessary. The secretary shall have complete charge of and supervisory powers over the department, except where the secretary's authority is specifically limited by law.

(6) The secretary shall appoint such personnel as are necessary to carry out the duties of the department in accordance with chapter 41.06 RCW.

(7) The secretary shall appoint the state health officer and such deputy secretaries, assistant secretaries, and other administrative positions as deemed necessary consistent with the principles set forth in subsection (2) of this section. All persons who administer the necessary divisions, offices, bureaus, and programs, and five additional employees shall be exempt from the provisions of chapter 41.06 RCW. The

officers and employees appointed under this subsection shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the state civil service law.

(8) The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 8; 1989 1st ex.s. c 9 § 103.]

43.70.030 Secretary of health. The executive head and appointing authority of the department shall be the secretary of health. The secretary shall be appointed by, and serve at the pleasure of, the governor in accordance with RCW 43.17.020. The secretary shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1989 1st ex.s. c 9 § 104.]

43.70.040 Secretary's powers—Rule-making authority—Report to the legislature. In addition to any other powers granted the secretary, the secretary may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.: PROVIDED, That for rules adopted after July 23, 1995, the secretary may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess. in accordance with RCW 43.70.050;

(4) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of chapter 9, Laws of 1989 1st ex. sess.;

(5) Enter into contracts and enter into and distribute grants on behalf of the department to carry out the purposes of chapter 9, Laws of 1989 1st ex. sess. The department must report to the legislature a summary of the grants distributed under this authority, for each year of the first biennium after the department receives authority to distribute grants under this section, and make it electronically available;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of chapter 9, Laws of 1989 1st ex. sess.; or

(7) Solicit and accept gifts, grants, bequests, devises, or other funds from public and private sources. [2005 c 32 § 2; 2001 c 80 § 2; 1995 c 403 § 105; 1989 1st ex.s. c 9 § 106.]

Findings—Intent—2001 c 80: "(1) The legislature finds that developing, creating, and maintaining partnerships between the public and private sectors can enhance and augment current public health services. The legislature further finds that the department of health should have the ability to establish such partnerships, and seek out and accept gifts, grants, and other funding to advance worthy public health goals and programs.

(2) It is the intent of the legislature that gifts and other funds received by the department of health under the authority granted by RCW 43.70.040 may be used to expand or enhance program operations so long as program standards established by the department are maintained, but may not supplant or replace funds for federal, state, county, or city-supported programs." [2001 c 80 § 1.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.70.041 Five-year formal review process of existing rules. The department of health must establish and perform, within existing funds, a formal review process of its existing rules every five years. The goal of the review is to decrease the numbers of, simplify the process, and decrease the time required for obtaining licenses, permits, and inspections, as applicable, in order to reduce the regulatory burden on businesses without compromising public health and safety. Benchmarks must be adopted to assess the effectiveness of streamlining efforts. The department must establish a process for effectively applying sunset provisions to rules when applicable. The department must report back to the applicable committees of the legislature with its review process and benchmarks by January 2014. [2013 2nd sp.s. c 30 § 4.]

Findings—Intent—2013 2nd sp.s. c 30: See note following RCW 43.21A.081.

43.70.045 Warren Featherstone Reid Award for Excellence in Health Care. There is created an award to honor and recognize cost-effective and quality health care services. This award shall be known as the "Warren Featherstone Reid Award for Excellence in Health Care." [1994 c 7 § 2.]

Finding—1994 c 7: "The legislature recognizes the critical importance of ensuring that all Washington residents have access to quality and affordable health care. The legislature further recognizes that substantial improvements can be made in health care delivery when providers, including health care facilities, are encouraged to continuously strive for excellence in quality management practices, value, and consumer satisfaction. The legislature finds that when centers of quality are highlighted and honored publicly they become examples for other health care providers to emulate, thereby further promoting the implementation of improved health care delivery processes." [1994 c 7 § 1.]

43.70.047 Warren Featherstone Reid Award for Excellence in Health Care. The governor, in conjunction with the secretary of health, shall identify and honor health care providers and facilities in Washington state who exhibit exceptional quality and value in the delivery of health services. The award shall be given annually consistent with the availability of qualified nominees. The secretary may appoint an advisory committee to assist in the selection of nominees, if necessary. [1994 c 7 § 3.]

43.70.050 Collection, use, and accessibility of health-related data. (1) The legislature intends that the department and board promote and assess the quality, cost, and accessibility of health care throughout the state as their roles are specified in chapter 9, Laws of 1989 1st ex. sess. in accordance with the provisions of this chapter. In furtherance of this goal, the secretary shall create an ongoing program of data collection, storage, assessability, and review. The legislature does not intend that the department conduct or contract for the conduct of basic research activity. The secretary may request appropriations for studies according to this section

from the legislature, the federal government, or private sources.

(2) All state agencies which collect or have access to population-based, health-related data are directed to allow the secretary access to such data. This includes, but is not limited to, data on needed health services, facilities, and personnel; future health issues; emerging bioethical issues; health promotion; recommendations from state and national organizations and associations; and programmatic and statutory changes needed to address emerging health needs. Private entities, such as insurance companies, health maintenance organizations, and private purchasers are also encouraged to give the secretary access to such data in their possession. The secretary's access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines. Such data in any form where the patient or provider of health care can be identified shall not be disclosed, subject to disclosure according to chapter 42.56 RCW, discoverable or admissible in judicial or administrative proceedings. Such data can be used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.

(3) The department shall serve as the clearinghouse for information concerning innovations in the delivery of health care services, the enhancement of competition in the health care marketplace, and federal and state information affecting health care costs.

(4) The secretary shall review any data collected, pursuant to this chapter, to:

(a) Identify high-priority health issues that require study or evaluation. Such issues may include, but are not limited to:

(i) Identification of variations of health practice which indicate a lack of consensus of appropriateness;

(ii) Evaluation of outcomes of health care interventions to assess their benefit to the people of the state;

(iii) Evaluation of specific population groups to identify needed changes in health practices and services;

(iv) Evaluation of the risks and benefits of various incentives aimed at individuals and providers for both preventing illnesses and improving health services;

(v) Identification and evaluation of bioethical issues affecting the people of the state; and

(vi) Other such objectives as may be appropriate;

(b) Further identify a list of high-priority health study issues for consideration by the board, within their authority, for inclusion in the state health report required by *RCW 43.20.050. The list shall specify the objectives of each study, a study timeline, the specific improvements in the health status of the citizens expected as a result of the study, and the estimated cost of the study; and

(c) Provide background for the state health report required by *RCW 43.20.050.

(5) Any data, research, or findings may also be made available to the general public, including health professions, health associations, the governor, professional boards and regulatory agencies and any person or group who has allowed the secretary access to data.

(6) Information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, shall be available to the office of financial management con-

sistent with RCW 43.370.020, whether the license is issued by the secretary of the department of health or a board or commission. The department shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual. The office of financial management shall also have access to information submitted to the department of health as part of the medical or health facility licensing process.

(7) The secretary may charge a fee to persons requesting copies of any data, research, or findings. The fee shall be no more than necessary to cover the cost to the department of providing the copy. [2009 c 343 § 2; 2005 c 274 § 301; 1989 1st ex.s. c 9 § 107.]

*Reviser's note: RCW 43.20.050 was amended by 2011 c 27 § 1, eliminating the "state health report."

43.70.052 Hospital financial and patient discharge data—Financial reports—Data retrieval—American Indian health data—Reporting—Patient discharge data—Confidentiality and protection. (1)(a) To promote the public interest consistent with the purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, the department shall require hospitals to submit hospital financial and patient discharge information, including any applicable information reported pursuant to RCW 43.70.053, which shall be collected, maintained, analyzed, and disseminated by the department. The department shall, if deemed cost-effective and efficient, contract with a private entity for any or all parts of data collection. Data elements shall be reported in conformance with a uniform reporting system established by the department. This includes data elements identifying each hospital's revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial and employee compensation information reasonably necessary to fulfill the purposes of this section.

(b) Data elements relating to use of hospital services by patients shall be the same as those currently compiled by hospitals through inpatient discharge abstracts. The department shall encourage and permit reporting by electronic transmission or hard copy as is practical and economical to reporters.

(c) By January 1, 2023, the department must revise the uniform reporting system to further delineate hospital expenses reported in the other direct expense category in the statement of revenue and expense. The department must include the following additional categories of expenses within the other direct expenses category:

- (i) Blood supplies;
- (ii) Contract staffing;
- (iii) Information technology, including licenses and maintenance;
- (iv) Insurance and professional liability;
- (v) Laundry services;
- (vi) Legal, audit, and tax professional services;
- (vii) Purchased laboratory services;
- (viii) Repairs and maintenance;
- (ix) Shared services or system office allocation;
- (x) Staff recruitment;
- (xi) Training costs;
- (xii) Taxes;
- (xiii) Utilities; and

(xiv) Other noncategorized expenses.

(d) The department must revise the uniform reporting system to further delineate hospital revenues reported in the other operating revenue category in the statement of revenue and expense. The department must include the following additional categories of revenues within the other operating revenues category:

- (i) Donations;
- (ii) Grants;
- (iii) Joint venture revenue;
- (iv) Local taxes;
- (v) Outpatient pharmacy;
- (vi) Parking;
- (vii) Quality incentive payments;
- (viii) Reference laboratories;
- (ix) Rental income;
- (x) Retail cafeteria; and
- (xi) Other noncategorized revenues.

(e)(i) A hospital, other than a hospital designated by medicare as a critical access hospital or sole community hospital, must report line items and amounts for any expenses or revenues in the other noncategorized expenses category in (c)(xiv) of this subsection or the other noncategorized revenues category in (d)(xi) of this subsection that either have a value: (A) Of \$1,000,000 or more; or (B) representing one percent or more of the total expenses or total revenues; or

(ii) A hospital designated by medicare as a critical access hospital or sole community hospital must report line items and amounts for any expenses or revenues in the other noncategorized expenses category in (c)(xiv) of this subsection or the other noncategorized revenues category in (d)(xi) of this subsection that represent the greater of: (A) \$1,000,000; or (B) one percent or more of the total expenses or total revenues.

(f) A hospital must report any money, including loans, received by the hospital or a health system to which it belongs from a federal, state, or local government entity in response to a national or state-declared emergency, including a pandemic. Hospitals must report this information as it relates to federal, state, or local money received after January 1, 2020, in association with the COVID-19 pandemic. The department shall provide guidance on reporting pursuant to this subsection.

(2) In identifying financial reporting requirements, the department may require both annual reports and condensed quarterly reports from hospitals, so as to achieve both accuracy and timeliness in reporting, but shall craft such requirements with due regard of the data reporting burdens of hospitals.

(3)(a) Beginning with compensation information for 2012, unless a hospital is operated on a for-profit basis, the department shall require a hospital licensed under chapter 70.41 RCW to annually submit employee compensation information. To satisfy employee compensation reporting requirements to the department, a hospital shall submit information as directed in (a)(i) or (ii) of this subsection. A hospital may determine whether to report under (a)(i) or (ii) of this subsection for purposes of reporting.

(i) Within one hundred thirty-five days following the end of each hospital's fiscal year, a nonprofit hospital shall file the appropriate schedule of the federal internal revenue service

form 990 that identifies the employee compensation information with the department. If the lead administrator responsible for the hospital or the lead administrator's compensation is not identified on the schedule of form 990 that identifies the employee compensation information, the hospital shall also submit the compensation information for the lead administrator as directed by the department's form required in (b) of this subsection.

(ii) Within one hundred thirty-five days following the end of each hospital's calendar year, a hospital shall submit the names and compensation of the five highest compensated employees of the hospital who do not have any direct patient responsibilities. Compensation information shall be reported on a calendar year basis for the calendar year immediately preceding the reporting date. If those five highest compensated employees do not include the lead administrator for the hospital, compensation information for the lead administrator shall also be submitted. Compensation information shall include base compensation, bonus and incentive compensation, other payments that qualify as reportable compensation, retirement and other deferred compensation, and nontaxable benefits.

(b) To satisfy the reporting requirements of this subsection (3), the department shall create a form and make it available no later than August 1, 2012. To the greatest extent possible, the form shall follow the format and reporting requirements of the portion of the internal revenue service form 990 schedule relating to compensation information. If the internal revenue service substantially revises its schedule, the department shall update its form.

(4) The health care data collected, maintained, and studied by the department shall only be available for retrieval in original or processed form to public and private requestors pursuant to subsection (9) of this section and shall be available within a reasonable period of time after the date of request. The cost of retrieving data for state officials and agencies shall be funded through the state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(5) The department shall, in consultation and collaboration with tribes, urban or other Indian health service organizations, and the federal area Indian health service, design, develop, and maintain an American Indian-specific health data, statistics information system.

(6)(a) Except as provided in subsection (c) of this section, beginning January 1, 2023, patient discharge information reported by hospitals to the department must identify patients by race, ethnicity, gender identity, sexual orientation, preferred language, any disability, and zip code of primary residence. The department shall provide guidance on reporting pursuant to this subsection. When requesting demographic information under this subsection, a hospital must inform patients that providing the information is voluntary. If a hospital fails to report demographic information under this subsection because a patient refused to provide the information, the department may not take any action against the hospital for failure to comply with reporting requirements or other licensing standards on that basis.

(b) The department must develop a waiver process for the requirements of (a) of this subsection for a hospital that is certified by the centers for medicare and medicaid services as a critical access hospital, is certified by the centers of medicare and medicaid services as a sole community hospital, or qualifies as a medicare dependent hospital due to economic hardship, technological limitations that are not reasonably in the control of the hospital, or other exceptional circumstance demonstrated by the hospital. The waiver must be limited to one year or less, or for any other specified time frame set by the department. Hospitals may apply for waiver extensions.

(c) Subject to funding appropriated specifically for this purpose, the department shall establish a process no later than October 1, 2022, for any hospital that is certified by the centers for medicare and medicaid services as a critical access hospital, is certified by the centers for medicare and medicaid services as a sole community hospital, or qualifies as a medicare dependent hospital, to apply for a grant to support updating the hospital's electronic health records system to comply with the requirements of this subsection, subject to the following:

(i) A hospital owned or operated by a health system that owns or operates two or more hospitals is not eligible to apply for a grant under this subsection;

(ii) In considering a hospital application, the department may consider information about the hospital's need for financial support to alter the hospital's electronic health records system, including, but not limited to, demonstrated costs necessary to update the hospital's current electronic health record system to comply with the requirements in this section and evidence of need for financial assistance. The department may provide grant amounts of varying sizes depending on the need of the applicant hospital;

(iii) A hospital that receives a grant under this section must update the hospital's electronic health records system to comply with the requirements of this section before the hospital may make other changes to its electronic health records system, except for changes that are required for security, compliance, or privacy purposes; and

(iv) A hospital that receives a grant under this section must comply with subsection (a) of this section no later than July 1, 2023.

(d) The department shall adopt rules to implement this subsection (6) no later than July 1, 2022.

(7) Beginning January 1, 2023, each hospital must report to the department, on a quarterly basis, the number of submitted and completed charity care applications that the hospital received in the prior quarter and the number of charity care applications approved in the prior quarter pursuant to the hospital's charity care policy, consistent with chapter 70.170 RCW. The department shall develop a standard form for hospitals to use in submitting information pursuant to this subsection.

(8) All persons subject to the data collection requirements of this section shall comply with departmental requirements established by rule in the acquisition of data.

(9) The department must maintain the confidentiality of patient discharge data it collects under subsections (1) and (6) of this section. Patient discharge data that includes direct and indirect identifiers is not subject to public inspection and the department may only release such data as allowed for in this

section. Any agency that receives patient discharge data under (a) or (b) of this subsection must also maintain the confidentiality of the data and may not release the data except as consistent with subsection (10)(b) of this section. The department may release the data as follows:

(a) Data that includes direct and indirect patient identifiers, as specifically defined in rule, may be released to:

(i) Federal, state, and local government agencies upon receipt of a signed data use agreement with the department; and

(ii) Researchers with approval of the Washington state institutional review board upon receipt of a signed confidentiality agreement with the department.

(b) Data that does not contain direct patient identifiers but may contain indirect patient identifiers may be released to agencies, researchers, and other persons upon receipt of a signed data use agreement with the department.

(c) Data that does not contain direct or indirect patient identifiers may be released on request.

(10) Recipients of data under subsection (9)(a) and (b) of this section must agree in a written data use agreement, at a minimum, to:

(a) Take steps to protect direct and indirect patient identifying information as described in the data use agreement; and

(b) Not redisclose the data except as authorized in their data use agreement consistent with the purpose of the agreement.

(11) Recipients of data under subsection (9)(b) and (c) of this section must not attempt to determine the identity of persons whose information is included in the data set or use the data in any manner that identifies individuals or their families.

(12) For the purposes of this section:

(a) "Direct patient identifier" means information that identifies a patient; and

(b) "Indirect patient identifier" means information that may identify a patient when combined with other information.

(13) The department must adopt rules necessary to carry out its responsibilities under this section. The department must consider national standards when adopting rules. [2021 c 162 § 1; 2014 c 220 § 2; 2012 c 98 § 1; 1995 c 267 § 1.]

Effective date—2014 c 220: See note following RCW 70.02.290.

Additional notes found at www.leg.wa.gov

43.70.053 Hospital consolidated annual income—Reporting. (1)(a) Beginning July 1, 2022, for a health system operating a hospital licensed under chapter 70.41 RCW, the health system must annually submit to the department a consolidated annual income statement and balance sheet, including hospitals, ambulatory surgical facilities, health clinics, urgent care clinics, physician groups, health-related laboratories, long-term care facilities, home health agencies, dialysis facilities, ambulance services, behavioral health settings, and virtual care entities that are operated in Washington.

(b) The state auditor's office shall provide the department with audited financial statements for all hospitals owned or operated by a public hospital district under chapter 70.44 RCW. Public hospital districts are not required to sub-

mit additional information to the department under this subsection.

(2) The department must make information submitted under this section available in the same manner as hospital financial data. [2021 c 162 § 2.]

43.70.054 Health care data standards—Submittal of standards to legislature. (1) To promote the public interest consistent with chapter 267, Laws of 1995, the department of health, in cooperation with the director of the consolidated technology services agency established in RCW 43.105.025, shall develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government as consistent with the intent of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, to promote the delivery of quality health services that improve health outcomes for state residents. The data standards shall include content, coding, confidentiality, and transmission standards for all health care data elements necessary to support the intent of this section, and to improve administrative efficiency and reduce cost. Purchasers, as allowed by federal law, health carriers, health facilities and providers as defined in chapter 48.43 RCW, and state government shall utilize the data standards. The information and data elements shall be reported as the department of health directs by rule in accordance with data standards developed under this section.

(2) The health care data collected, maintained, and studied by the department under this section or any other entity:

(a) Shall include a method of associating all information on health care costs and services with discrete cases; (b) shall not contain any means of determining the personal identity of any enrollee, provider, or facility; (c) shall only be available for retrieval in original or processed form to public and private requesters; (d) shall be available within a reasonable period of time after the date of request; and (e) shall give strong consideration to data standards that achieve national uniformity.

(3) The cost of retrieving data for state officials and agencies shall be funded through state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) All persons subject to this section shall comply with departmental requirements established by rule in the acquisition of data, however, the department shall adopt no rule or effect no policy implementing the provisions of this section without an act of law.

(5) The department shall submit developed health care data standards to the appropriate committees of the legislature by December 31, 1995. [2015 3rd sp.s. c 1 § 408; 1997 c 274 § 2; 1995 c 267 § 2.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Additional notes found at www.leg.wa.gov

43.70.056 Health care-associated infections—Data collection and reporting—Advisory committee—Rules.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Health care-associated infection" means a localized or systemic condition that results from adverse reaction to the presence of an infectious agent or its toxins and that was not present or incubating at the time of admission to the hospital.

(b) "Hospital" means a health care facility licensed under chapter 70.41 RCW.

(2)(a) A hospital shall collect data related to health care-associated infections as required under this subsection (2) on the following:

(i) Central line-associated bloodstream infection in all hospital inpatient areas where patients normally reside at least twenty-four hours;

(ii) Surgical site infection for colon and abdominal hysterectomy procedures.

(b) The department shall, by rule, delete, add, or modify categories of reporting when the department determines that doing so is necessary to align state reporting with the reporting categories of the centers for medicare and medicaid services. The department shall begin rule making forty-five calendar days, or as soon as practicable, after the centers for medicare and medicaid services adopts changes to reporting requirements.

(c) A hospital must routinely collect and submit the data required to be collected under (a) and (b) of this subsection to the national healthcare safety network of the United States centers for disease control and prevention in accordance with national healthcare safety network definitions, methods, requirements, and procedures.

If the centers for medicare and medicaid services changes reporting from the national healthcare safety network to another database or through another process, the department shall review the new reporting database or process and consider whether it aligns with the purposes of this section.

(d) Data collection and submission required under this subsection (2) must be overseen by a qualified individual with the appropriate level of skill and knowledge to oversee data collection and submission.

(e)(i) A hospital must release to the department, or grant the department access to, its hospital-specific information contained in the reports submitted under this subsection (2), as requested by the department consistent with *RCW 70.02.050.

(ii) The hospital reports obtained by the department under this subsection (2), and any of the information contained in them, are not subject to discovery by subpoena or admissible as evidence in a civil proceeding, and are not subject to public disclosure as provided in RCW 42.56.360.

(3) The department shall:

(a) Provide oversight of the health care-associated infection reporting program established in this section;

(b) By November 1, 2013, and biennially thereafter, submit a report to the appropriate committees of the legislature that contains: (i) Categories of reporting currently required of hospitals under subsection (2)(a) of this section; (ii) categories of reporting the department plans to add, delete, or modify by rule; and (iii) a description of the evaluation process used under (d) of this subsection;

(c) By December 1, 2009, and by each December 1st thereafter, prepare and publish a report on the department's website that compares the health care-associated infection rates at individual hospitals in the state using the data reported in the previous calendar year pursuant to subsection (2) of this section. The department may update the reports quarterly. In developing a methodology for the report and determining its contents, the department shall consider the recommendations of the advisory committee established in subsection (5) of this section. The report is subject to the following:

(i) The report must disclose data in a format that does not release health information about any individual patient; and

(ii) The report must not include data if the department determines that a data set is too small or possesses other characteristics that make it otherwise unrepresentative of a hospital's particular ability to achieve a specific outcome;

(d) Evaluate, on a regular basis, the quality and accuracy of health care-associated infection reporting required under subsection (2) of this section and the data collection, analysis, and reporting methodologies; and

(e) Provide assistance to hospitals with the reporting requirements of this chapter including definitions of required reporting elements.

(4) The department may respond to requests for data and other information from the data required to be reported under subsection (2) of this section, at the requestor's expense, for special studies and analysis consistent with requirements for confidentiality of patient records.

(5)(a) The department shall establish an advisory committee which may include members representing infection control professionals and epidemiologists, licensed health care providers, nursing staff, organizations that represent health care providers and facilities, health maintenance organizations, health care payers and consumers, and the department. The advisory committee shall make recommendations to assist the department in carrying out its responsibilities under this section, including making recommendations on allowing a hospital to review and verify data to be released in the report and on excluding from the report selected data from certified critical access hospitals.

(b) In developing its recommendations, the advisory committee shall consider methodologies and practices related to health care-associated infections of the United States centers for disease control and prevention, the centers for medicare and medicaid services, the joint commission, the national quality forum, the institute for healthcare improvement, and other relevant organizations.

(6) The department shall adopt rules as necessary to carry out its responsibilities under this section. [2013 c 319 § 2; 2013 c 319 § 1; 2010 c 113 § 1; 2009 c 244 § 2; 2007 c 261 § 2.]

***Reviser's note:** RCW 70.02.050 was amended by 2013 c 200 § 3, eliminating many of the provisions relating to disclosure of health care information without patient's authorization, effective July 1, 2014. See RCW 70.02.200 through 70.02.260.

Effective date—2013 c 319 § 2: "Section 2 of this act takes effect July 1, 2017." [2013 c 319 § 4.]

Findings—2007 c 261: "The legislature finds that each year health care-associated infections affect two million Americans. These infections result in the unnecessary death of ninety thousand patients and costs the health care system 4.5 billion dollars. Hospitals should be implementing evidence-based

measures to reduce hospital-acquired infections. The legislature further finds the public should have access to data on outcome measures regarding hospital-acquired infections. Data reporting should be consistent with national hospital reporting standards." [2007 c 261 § 1.]

Additional notes found at www.leg.wa.gov

43.70.057 Hospital emergency room patient care information—Data collection, maintenance, analysis, and dissemination—Rules. (1) The legislature finds that public health data is critical to the department's ability to respond to emerging public health threats and chronic conditions affecting the public health and, therefore, intends that the department be fully informed about emerging public health threats and chronic conditions that may impact the health of Washington citizens.

(2) The department shall require hospitals with emergency departments to submit emergency department patient care information, which must be collected, maintained, analyzed, and disseminated by the department. The department shall also accept other data types submitted voluntarily as approved by the department. The data must be collected in a way that allows automated reporting by electronic transmission. Emergency departments submitting data must be able to obtain their data and aggregate regional and statewide data from the collection system within thirty minutes of submission of a query for the data once the data is available in the system. The department may, if deemed cost-effective and efficient, contract with a private entity for any or all parts of data collection, maintenance, analysis, and dissemination. The department or contractor shall include the following elements:

(a) A demonstrated ability to collect the data required by this section in a way that allows automated reporting by electronic transmission;

(b) An established data submission arrangement with the majority of emergency departments required to submit data pursuant to this section;

(c) The demonstrated ability to allow emergency departments submitting data to immediately obtain their own data and aggregate regional and statewide data and the department to immediately obtain any data within thirty minutes of submission of a query for data once the data is available in the system; and

(d) The capacity to work with existing emergency department data systems to minimize administrative reporting burden and costs.

(3) Data elements must be reported in conformance with a uniform reporting system established by the department in collaboration with representatives from emergency departments required to submit data pursuant to this section and in conformance with current or emerging national standards for reporting similar data. Data elements to be initially collected include, but are not limited to, data elements identifying facility information, limited patient identifiers, patient demographics, and encounter, clinical, and laboratory information. In order to ensure meaningful public health surveillance, after consulting with emergency departments required to submit data pursuant to this section, the department shall adopt rules including, but not limited to, data element and format requirements and time frames for reporting and addressing errors in submission. The rules adopted shall support align-

ment with current or emerging national standards for reporting similar data and minimization of administrative burden and costs.

(4) The department may require additional information from data providers only for the purposes of validating data received, verifying data accuracy, conducting surveillance of potential public health threats, and addressing potential public health threats.

(5) The data collected, maintained, and analyzed by the department must only be available for retrieval in original or processed form to public and private requestors pursuant to subsection (6) of this section and must be available within a reasonable period of time after the date of request, except that emergency departments submitting data pursuant to this section must have the ability to immediately obtain their own data and aggregate regional and statewide data within thirty minutes of submission of a query for data once the data is available in the system. The cost of retrieving their own data and aggregate regional and statewide data in standardized reports for state, local, tribal, federal officials and agencies, and health care facilities, and health care providers associated with the emergency departments submitting data pursuant to this section, must be funded through the agency's resources. The cost of retrieving data for individuals and organizations engaged in research or private use of data or reports must be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or report in the requested form.

(6) The department must maintain the confidentiality of patient data it collects under subsection (2) of this section. Patient data collected by the department is health care information under chapter 70.02 RCW. Patient data that includes direct and indirect identifiers is not subject to public inspection and copying and the department may only release that data as allowed for in this section. Any agency that receives patient data under (a) or (b) of this subsection must also maintain the confidentiality of the data and may not release the data except as consistent with subsection (7)(b) of this section. The department may release the data as follows:

(a) Data that includes direct and indirect patient identifiers, as specifically defined in rule, may be released to:

(i)(A) Federal, Washington state, tribal, and local government agencies upon receipt of a signed data use agreement with the department;

(B) In the case of an emergent public health threat, the signed data use agreement requirement must be waived for public health authorities. The department may disclose only the minimum amount of information necessary, to the fewest number of people, for the least amount of time required to address the threat;

(ii) Researchers with approval of an institutional review board upon receipt of a signed confidentiality agreement with the department;

(b) Data that does not contain direct patient identifiers but may contain indirect patient identifiers may be released to agencies, institutional review board-approved researchers, and other persons upon receipt of a signed data use agreement with the department;

(c) Data that does not contain direct or indirect patient identifiers may be released on request.

(7) Recipients of data under subsection (6)(a) and (b) of this section must agree in a data use agreement, as applicable, at a minimum, to:

(a) Take steps to protect direct and indirect patient identifiers as described in the data use agreement; and

(b) Not redisclose the data except as authorized in their data use agreement consistent with the purpose of the agreement.

(8) Recipients of data under subsection (6)(b) and (c) of this section must not attempt to determine the identity of persons whose information is included in the data set or use the data in any manner that identifies individuals or their families.

(9) For the purposes of this section:

(a) "Direct patient identifier" means information that identifies a patient; and

(b) "Indirect patient identifier" means information that may identify a patient when combined with other information.

(10) The department may adopt rules necessary to carry out its responsibilities under this section. The department must consider national standards when adopting rules. [2017 c 220 § 1.]

43.70.060 Duties of department—Promotion of health care cost-effectiveness. It is the intent of the legislature to promote appropriate use of health care resources to maximize access to adequate health care services. The legislature understands that the rapidly increasing costs of health care are limiting access to care. To promote health care cost-effectiveness, the department shall:

(1) Implement the certificate of need program;

(2) Monitor and evaluate health care costs;

(3) Evaluate health services and the utilization of services for outcome and effectiveness; and

(4) Recommend strategies to encourage adequate and cost-effective services and discourage ineffective services. [1989 1st ex.s. c 9 § 108.]

43.70.064 Health care quality—Findings and intent—Requirements for conducting study under RCW 43.70.066. The legislature finds that it is difficult for consumers of health care services to determine the quality of health care prior to purchase or utilization of medical care. The legislature also finds that accountability is a key component in promoting quality assurance and quality improvement throughout the health care delivery system, including public programs. Quality assurance and improvement standards are necessary to promote the public interest, contribute to cost efficiencies, and improve the ability of consumers to ascertain quality health care purchases.

The legislature intends to have consumers, health carriers, health care providers and facilities, and public agencies participate in the development of quality assurance and improvement standards that can be used to develop a uniform quality assurance program for use by all public and private health plans, providers, and facilities. To that end, in conducting the study required under RCW 43.70.066, the department of health shall:

(1) Consider the needs of consumers, employers, health care providers and facilities, and public and private health plans;

(2) Take full advantage of existing national standards of quality assurance to extend to middle-income populations the protections required for state management of health programs for low-income populations;

(3) Consider the appropriate minimum level of quality assurance standards that should be disclosed to consumers and employers by health care providers and facilities, and public and private health plans; and

(4) Consider standards that permit health care providers and facilities to share responsibility for participation in a uniform quality assurance program. [1995 c 267 § 3.]

Additional notes found at www.leg.wa.gov

43.70.066 Study—Uniform quality assurance and improvement program—Reports to legislature—Limitation on rule making. (1) The department of health shall study the feasibility of a uniform quality assurance and improvement program for use by all public and private health plans and health care providers and facilities. In this study, the department shall consult with:

(a) Public and private purchasers of health care services;

(b) Health carriers;

(c) Health care providers and facilities; and

(d) Consumers of health services.

(2) In conducting the study, the department shall propose standards that meet the needs of affected persons and organizations, whether public or private, without creation of differing levels of quality assurance. All consumers of health services should be afforded the same level of quality assurance.

(3) At a minimum, the study shall include but not be limited to the following program components and indicators appropriate for consumer disclosure:

(a) Health care provider training, credentialing, and licensure standards;

(b) Health care facility credentialing and recredentialing;

(c) Staff ratios in health care facilities;

(d) Annual mortality and morbidity rates of cases based on a defined set of procedures performed or diagnoses treated in health care facilities, adjusted to fairly consider variable factors such as patient demographics and case severity;

(e) The average total cost and average length of hospital stay for a defined set of procedures and diagnoses;

(f) The total number of the defined set of procedures, by specialty, performed by each physician at a health care facility within the previous twelve months;

(g) Utilization performance profiles by provider, both primary care and specialty care, that have been adjusted to fairly consider variable factors such as patient demographics and severity of case;

(h) Health plan fiscal performance standards;

(i) Health care provider and facility recordkeeping and reporting standards;

(j) Health care utilization management that monitors trends in health service underutilization, as well as overutilization of services;

(k) Health monitoring that is responsive to consumer, purchaser, and public health assessment needs; and

(l) Assessment of consumer satisfaction and disclosure of consumer survey results.

(4) In conducting the study, the department shall develop standards that permit each health care facility, provider group, or health carrier to assume responsibility for and determine the physical method of collection, storage, and assimilation of quality indicators for consumer disclosure. The study may define the forms, frequency, and posting requirements for disclosure of information.

In developing proposed standards under this subsection, the department shall identify options that would minimize provider burden and administrative cost resulting from duplicative private sector data submission requirements.

(5) The department shall submit a preliminary report to the legislature by December 31, 1995, including recommendations for initial legislation pursuant to subsection (6) of this section, and may submit supplementary reports and recommendations as completed, consistent with appropriated funds and staffing.

(6) The department shall not adopt any rule implementing the uniform quality assurance program or consumer disclosure provisions unless expressly directed to do so by an act of law. [1998 c 245 § 72; 1997 c 274 § 3; 1995 c 267 § 4.]

Additional notes found at www.leg.wa.gov

43.70.068 Quality assurance—Interagency cooperation. The department of health, the health care authority, the department of social and health services, the office of the insurance commissioner, and the department of labor and industries shall form an interagency group for coordination and consultation on quality assurance activities and collaboration on final recommendations for the study required under RCW 43.70.066. [1997 c 274 § 4; 1995 c 267 § 5.]

Additional notes found at www.leg.wa.gov

43.70.070 Duties of department—Analysis of health services. The department shall evaluate and analyze readily available data and information to determine the outcome and effectiveness of health services, utilization of services, and payment methods. This section should not be construed as allowing the department access to proprietary information.

(1) The department shall make its evaluations available to the board for use in preparation of the state health report required by *RCW 43.20.050, and to consumers, purchasers, and providers of health care.

(2) The department shall use the information to:

(a) Develop guidelines which may be used by consumers, purchasers, and providers of health care to encourage necessary and cost-effective services; and

(b) Make recommendations to the governor on how state government and private purchasers may be prudent purchasers of cost-effective, adequate health services. [1995 c 269 § 2202; 1989 1st ex.s. c 9 § 109.]

*Reviser's note: RCW 43.20.050 was amended by 2011 c 27 § 1, eliminating the "state health report."

Additional notes found at www.leg.wa.gov

43.70.075 Identity of whistleblower protected—Remedy for retaliatory action—Definitions—Rules. (1)(a) The identity of a whistleblower must remain confidential if that whistleblower:

(i) Complains, in good faith, to the department of health about the improper quality of care by a health care provider, or in a health care facility;

(ii) Initiates in good faith any investigation or administrative proceeding about a complaint of improper quality of care made to the department under this section; or

(iii) Submits a notification or report of an adverse event or an incident, in good faith, to the department of health under RCW 70.56.020 or to the independent entity under RCW 70.56.040.

(b) The provisions of RCW 4.24.500 through 4.24.520, providing certain protections to persons who communicate to government agencies, shall apply to complaints and notifications or reports of adverse events or incidents filed under this section. The identity of the whistleblower shall remain confidential unless the department determines that the complaint, initiation, notification, or report was not made or done in good faith.

(c) An employee who is a whistleblower, as defined in this section, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW.

(d) A whistleblower who is not an employee and who as a result of being a whistleblower has been subjected to reprisal or retaliatory action may initiate a civil action in a court of competent jurisdiction to either enjoin further violations, recover actual damages sustained by the whistleblower, or both, and recover the cost of the suit including reasonable attorneys' fees. The court shall award reasonable attorneys' fees in favor of the respondent if the civil action was initiated by a whistleblower who is not an employee and the court finds that the respondent has not engaged in the alleged reprisal or retaliatory action and that the complaint was frivolous, unreasonable, or groundless.

(2) A civil action under this section may not be brought more than two years after the date when the retaliation occurred.

(3) In this section:

(a) "Health care facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, ambulatory surgical facilities licensed under chapter 70.230 RCW, substance use disorder treatment facilities licensed under chapter 71.24 RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(b) "Improper quality of care" means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 or chapters 70.41, 71.24, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary

coordination provided by the state department of health, adopt rules defining accepted standards of practice for their profession that shall further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment.

(c) "Reprisal or retaliatory action" means but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct pursuant to Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower; and the revocation, suspension, or reduction of medical staff membership or privileges without following a medical staff sanction process that is consistent with RCW 7.71.050.

(d) "Whistleblower" means a consumer, employee, or health care professional including a health care provider as defined in RCW 7.70.020(1) or member of a medical staff at a health care facility, who in good faith reports alleged quality of care concerns to the department of health or initiates, participates, or cooperates in any investigation or administrative proceeding under this section.

(4) Nothing in this section prohibits a health care facility from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(5) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under Title 18 RCW for health professionals or health care facilities. [2019 c 62 § 1; 2006 c 8 § 109; 1995 c 265 § 19.]

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Additional notes found at www.leg.wa.gov

43.70.080 Transfer of powers and duties from the department of social and health services. The powers and duties of the department of social and health services and the secretary of social and health services under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 16.70, 18.46, 18.71, 18.73, 18.76, 69.30, 70.28, 70.30, 70.50, *70.58, 70.62, 70.83, 70.90, 70A.388, 70.104, 70A.100, 70A.105, 70A.120, 70A.125, 70A.310, 70.127, 70A.130, and 80.50 RCW. More specifically, the following programs and services presently administered by the department of social and health services are hereby transferred to the department of health:

(1) Personal health and protection programs and related management and support services, including, but not limited to: Immunizations; tuberculosis; sexually transmitted diseases; AIDS; diabetes control; primary health care; cardiovascular risk reduction; kidney disease; regional genetic services; newborn metabolic screening; sentinel birth defects;

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cytogenetics; communicable disease epidemiology; and chronic disease epidemiology;

(2) Environmental health protection services and related management and support services, including, but not limited to: Radiation, including X-ray control, radioactive materials, uranium mills, low-level waste, emergency response and reactor safety, and environmental radiation protection; drinking water; toxic substances; on-site sewage; recreational water contact facilities; food services sanitation; shellfish; and general environmental health services, including schools, vectors, parks, and camps;

(3) Public health laboratory;

(4) Public health support services, including, but not limited to: Vital records; health data; local public health services support; and health education and information;

(5) Licensing and certification services including, but not limited to: Behavioral health agencies, agencies providing problem and pathological gambling treatment, health and personal care facility survey, construction review, emergency medical services, laboratory quality assurance, and accommodations surveys; and

(6) Effective January 1, 1991, parent and child health services and related management support services, including, but not limited to: Maternal and infant health; child health; parental health; nutrition; services for children with disabilities; family planning; adolescent pregnancy services; high priority infant tracking; early intervention; parenting education; prenatal regionalization; and power and duties under RCW 43.20A.635. The director of the office of financial management may recommend to the legislature a delay in this transfer, if it is determined that this time frame is not adequate. [2021 c 65 § 44; 2018 c 201 § 8009; 1989 1st ex. s. c 9 § 201.]

***Reviser's note:** Chapter 70.58 RCW was repealed in its entirety by 2019 c 148 § 40, effective January 1, 2021. For later enactment, see chapter 70.58A RCW.

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

43.70.081 Transfer of certain behavioral health-related powers, duties, and functions from the department of social and health services. (1) The powers, duties, and functions of the department of social and health services pertaining to licensing and certification of behavioral health provider agencies and facilities, except for state-run mental health institutions, are hereby transferred to the department of health to the extent necessary to carry out the purposes of chapter 201, Laws of 2018. All references to the secretary or the department of social and health services in the Revised Code of Washington shall be construed to mean the secretary of the department of health or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health

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services in carrying out the powers, duties, and functions transferred shall be made available to the department of health. All funds, credits, or other assets held by the department of social and health services in connection with the powers, duties, and functions transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on July 1, 2018, be transferred and credited to the department of health.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of social and health services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(4) The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed before July 1, 2018.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) On July 1, 2018, all employees of the department of social and health services engaged in performing the powers, functions, and duties transferred to the department of health are transferred to the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

(7) Positions in any bargaining unit within the department of health existing on July 1, 2018, will not be removed from an existing bargaining unit as a result of this section unless and until the existing bargaining unit is modified by the public employment relations commission pursuant to Title 391 WAC. Nonsupervisory civil service employees of the department of social and health services assigned to the department of health under this section whose positions are within the existing bargaining unit description at the department of health shall become a part of that unit under the provision of chapter 41.80 RCW. The existing bargaining representative of the existing bargaining unit at the department of health shall continue to be certified as the exclusive bargaining representative without the necessity of an election.

(8) The department of health may enter into agreements as necessary with the department of social and health services

to carry out the transfer of duties as set forth in chapter 201, Laws of 2018. [2018 c 201 § 10002.]

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

43.70.090 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the secretary together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2). [1989 1st ex.s. c 9 § 252.]

43.70.095 Civil fines. This section governs the assessment of a civil fine against a person by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other [another] manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1991 c 3 § 378.]

43.70.097 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 626.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.70.100 Reports of violations by secretary—Duty to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20 or 43.70 RCW, or regulations promulgated under them, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20 or 43.70 RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [1989 1st ex.s. c 9 § 262.]

43.70.110 License fees—Costs—Other charges—Waiver. (1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, advanced social workers licensed under chapter 18.225 RCW, independent clinical social workers and independent clinical social worker associates licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW, marriage and family therapists and marriage and family therapist associates licensed under chapter 18.225 RCW, occupational therapists and occupational therapy assistants licensed under chapter 18.59 RCW,

dietitians and nutritionists certified under chapter 18.138 RCW, speech-language pathologists licensed under chapter 18.35 RCW, acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW, and veterinarians and veterinary technicians licensed under chapter 18.92 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees. [2020 c 80 § 28. Prior: 2019 c 308 § 21; 2019 c 140 § 1; 2015 c 77 § 1; prior: 2013 c 249 § 1; 2013 c 77 § 1; 2011 c 35 § 1; 2010 c 286 § 15; 2009 c 403 § 5; 2007 c 259 § 11; 2006 c 72 § 3; 2005 c 268 § 2; 1993 sp.s. c 24 § 918; 1989 1st ex.s. c 9 § 263.]

Effective date—2020 c 80 §§ 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Findings—2019 c 308: See note following RCW 18.06.010.

Effective date—2015 c 77: "This act takes effect August 1, 2015." [2015 c 77 § 2.]

Effective date—2013 c 77: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 25, 2013]." [2013 c 77 § 4.]

Intent—2010 c 286: See RCW 18.06.005.

Finding—Intent—2009 c 403: See note following RCW 18.71.080.

Finding—2005 c 268: See note following RCW 18.79.202.

Additional notes found at www.leg.wa.gov

43.70.112 Online access to health care resources—Annual accounting of use of funds and use of online resources—University of Washington. Within the amounts transferred from the department of health under RCW 43.70.110(3), the University of Washington shall, through the health sciences library, provide online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews of procedures, drugs, and devices to the health professionals listed in RCW 43.70.110(3)(c). Online access shall be available no later than January 1, 2009. Each year, by December 1st, the University of Washington shall provide an annual accounting of the use of the funds transferred, including which categories of health professionals are using the materials available under the program. The accounting must be transmitted by electronic mail to the members of the health care committees of the legislature. [2009 c 558 § 2; 2007 c 259 § 12.]

Additional notes found at www.leg.wa.gov

43.70.115 Licenses—Denial, suspension, revocation, modification. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action.

The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the department of social and health services that the licensee is a person who is not in compliance with a child support order or *an order from a court stating that the licensee is in noncompliance with a residential or visitation order under chapter 26.09 RCW, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a child support order under chapter 74.20A RCW or noncompliance with a *residential or visitation order under chapter 26.09 RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1997 c 58 § 843; 1991 c 3 § 377.]

*Reviser's note: 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health ser-

vices to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

43.70.117 Health care professionals licensed in another state or United States territory or the District of Columbia—In-state practice on a limited basis—Requirements—Limitations. (1) Persons licensed as health care professionals in another state or territory of the United States or the District of Columbia, but not licensed by a disciplining authority specified in RCW 18.130.040, may practice in this state on a limited voluntary basis only as provided in this section.

(2) The volunteer health care professional's license must be for a profession substantially equivalent to a profession regulated by a disciplining authority listed in RCW 18.130.040.

(3) At least ten working days prior to the first day of volunteer practice, the volunteer health care professional must submit to the department an attestation that includes, but is not limited to, the following:

(a) A confirmation that the health care professional holds an active license to practice in any state or territory of the United States or the District of Columbia;

(b) A confirmation that the health care professional is not presently subject to any disciplinary action or investigation for criminal or professional misconduct in any jurisdiction;

(c) An acknowledgment that the health care professional understands he or she may perform only within the relevant professional scope of practice permitted under Washington law, or state of licensure, whichever is more restrictive;

(d) A confirmation that the health care professional has not volunteered in Washington for more than thirty days in the current calendar year;

(e) The contact information of the organization sponsoring the medical clinic or health care event, if any; and

(f) Anticipated volunteer practice dates.

(4) The attestation must be made on a form established by the secretary.

(5) Neither the volunteer health care professional nor the organization sponsoring a medical clinic or health care event, if any, may charge for any time or services performed in Washington. However, organizations sponsoring a medical clinic or health care event may pay or reimburse the volunteer health care professional for actual incurred travel costs.

(6) No health care professional permitted to practice in Washington under this section may volunteer more than thirty days in any calendar year.

(7) Any organization sponsoring a medical clinic or health care event using the services of any volunteer health care professional permitted to practice under this section must:

(a) Independently verify each requirement in subsection (3) of this section for each volunteer health care professional and retain proof of verification for two years after the last day of the medical clinic or health care event;

(b) Maintain the health care records of all patients evaluated or treated by a volunteer health care professional in compliance with chapter 70.02 RCW; and

(c) Ensure the health care records of all patients evaluated or treated by a volunteer health care professional are accessible to future health care professionals, if needed, in compliance with chapter 70.02 RCW.

(8) This section does not create any civil liability on the part of the state or any state agency, officer, employee, or agent.

(9) This section does not apply to the practice of health care professionals under chapter 38.10 or 38.52 RCW or under an agreement authorized by the United States congress for emergency management assistance. [2014 c 126 § 1.]

43.70.120 Federal programs—Rules—Statutes to be construed to meet federal law. In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the department of health shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health. [1989 1st ex.s. c 9 § 264.]

43.70.125 Health care facility certification—Unfunded federal mandates—Applicant fees. The federal government requires Washington health care facilities to be certified in order to receive federal health care program reimbursement. The department receives funding from the federal government to perform the certifications and recertifications of these health care facilities. When the federal government does not provide sufficient funding to cover all certifications and recertifications, the secretary may assess fees on certification and recertification applicants to fund the certifications and recertifications. [2007 c 279 § 1.]

43.70.130 Powers and duties of secretary—General. The secretary of health shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

(2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;

(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

(4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has

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been established, and all expenses so incurred shall be paid upon demand of the secretary of the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

(5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of health;

(7) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it, or by agreement with the local health officer or local board of health;

(8) Cause to be made from time to time, personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

(9) Review and approve plans for public water system design, engineering, operation, maintenance, financing, and emergency response, as required under state board of health rules;

(10) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

(11) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department. [1990 c 132 § 2; 1989 1st ex.s. c 9 § 251; 1985 c 213 § 2; 1979 c 141 § 46; 1967 ex.s. c 102 § 1; 1965 c 8 § 43.20.010. Prior: (i) 1909 c 208 § 2; RRS § 6004. (ii) 1921 c 7 § 59; RRS § 10817. Formerly RCW 43.20A.600 and 43.20.010.]

Legislative findings—Severability—1990 c 132: See note following RCW 43.20.240.

Public water systems—Complaint process: RCW 43.20.240.

Additional notes found at www.leg.wa.gov

43.70.140 Annual conference of health officers. In order to receive the assistance and advice of local health officers in carrying out the secretary's duties and responsibilities, the secretary of health shall hold annually a conference of local health officers, at such place as the secretary deems convenient, for the discussion of questions pertaining to public health, sanitation, and other matters pertaining to the

duties and functions of the local health departments, which shall continue in session for such time not exceeding three days as the secretary deems necessary.

The health officer of each county, district, municipality and county-city department shall attend such conference during its entire session, and receive therefor his or her actual and necessary traveling expenses, to be paid by his or her county, district, and municipality or county-city department. No claim for such expenses shall be allowed or paid unless it is accompanied by a certificate from the secretary of health attesting the attendance of the claimant. [1989 1st ex.s. c 9 § 253; 1979 c 141 § 50; 1967 ex.s. c 102 § 10; 1965 c 8 § 43.20.060. Prior: 1915 c 75 § 1; RRS § 6005. Formerly RCW 43.20A.615 and 43.20.060.]

Additional notes found at www.leg.wa.gov

43.70.150 Registration of vital statistics. The secretary of health shall have charge of the state system of registration of births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance, and shall prepare the necessary rules, forms, and blanks for obtaining records, and insure the faithful registration thereof. [1989 1st ex.s. c 9 § 254; 1979 c 141 § 51; 1967 c 26 § 1; 1965 c 8 § 43.20.070. Prior: 1907 c 83 § 1; RRS § 6018. Formerly RCW 43.20A.620 and 43.20.070.]

Vital statistics: Chapter 70.58A RCW.

Additional notes found at www.leg.wa.gov

43.70.170 Threat to public health—Investigation, examination or sampling of articles or conditions constituting—Access—Subpoena power. The secretary on his or her own motion or upon the complaint of any interested party, may investigate, examine, sample or inspect any article or condition constituting a threat to the public health including, but not limited to, outbreaks of communicable diseases, food poisoning, contaminated water supplies, and all other matters injurious to the public health. When not otherwise available, the department may purchase such samples or specimens as may be necessary to determine whether or not there exists a threat to the public health. In furtherance of any such investigation, examination or inspection, the secretary or the secretary's authorized representative may examine that portion of the ledgers, books, accounts, memorandums, and other documents and other articles and things used in connection with the business of such person relating to the actions involved.

For purposes of such investigation, the secretary or the secretary's representative shall at all times have free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities or any other place. The secretary may also, for the purposes of such investigation, issue subpoenas to compel the attendance of witnesses, as provided for in RCW 43.70.090 or the production of books and documents anywhere in the state. [1989 1st ex.s. c 9 § 256; 1979 c 141 § 53; 1967 ex.s. c 102 § 3. Formerly RCW 43.20A.640 and 43.20.150.]

Additional notes found at www.leg.wa.gov

43.70.180 Threat to public health—Order prohibiting sale or disposition of food or other items pending investigation. Pending the results of an investigation pro-

vided for under RCW 43.70.170, the secretary may issue an order prohibiting the disposition or sale of any food or other item involved in the investigation. The order of the secretary shall not be effective for more than fifteen days without the commencement of a legal action as provided for under RCW 43.70.190. [1989 1st ex.s. c 9 § 257; 1979 c 141 § 54; 1967 ex.s. c 102 § 4. Formerly RCW 43.20A.645 and 43.20.160.]

Additional notes found at www.leg.wa.gov

43.70.185 Inspection of property where marine species located—Prohibitions on harvest or landing—Penalties. (1) The department may enter and inspect any property, lands, or waters, of this state in or on which any marine species are located or from which such species are harvested, whether recreationally or for sale or barter, and any land or water of this state which may cause or contribute to the pollution of areas in or on which such species are harvested or processed. The department may take any reasonably necessary samples to determine whether such species or any lot, batch, or quantity of such species is safe for human consumption.

(2) If the department determines that any species or any lot, batch, or other quantity of such species is unsafe for human consumption because consumption is likely to cause actual harm or because consumption presents a potential risk of substantial harm, the department may, by order under chapter 34.05 RCW, prohibit or restrict the commercial or recreational harvest or landing of any marine species except the recreational harvest of shellfish as defined in chapter 69.30 RCW if taken from privately owned tidelands.

(3) It is unlawful to harvest any marine species in violation of a departmental order prohibiting or restricting such harvest under this section or to possess or sell any marine species so harvested.

(4)(a) Any person who sells any marine species taken in violation of this section is guilty of a gross misdemeanor and subject to the penalties provided in RCW 69.30.140 and 69.30.150.

(b) Any person who harvests or possesses marine species taken in violation of this section is guilty of a civil infraction and is subject to the penalties provided in RCW 69.30.150.

(c) Notwithstanding this section, any person who harvests, possesses, sells, offers to sell, culls, shucks, or packs shellfish is subject to the penalty provisions of chapter 69.30 RCW.

(d) Charges shall not be brought against a person under both chapter 69.30 RCW and this section in connection with this same action, incident, or event.

(5) The criminal provisions of this section are subject to enforcement by fish and wildlife officers or ex officio fish and wildlife officers as defined in RCW 77.08.010.

(6) As used in this section, marine species include all fish, invertebrate or plant species which are found during any portion of the life cycle of those species in the marine environment. [2003 c 53 § 231; 2001 c 253 § 2; 1995 c 147 § 7.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

43.70.190 Violations—Injunctions and legal proceedings authorized. The secretary of health or local health officer may bring an action to enjoin a violation or the threat-

ened violation of any of the provisions of the public health laws of this state or any rules or regulation made by the state board of health or the department of health pursuant to said laws, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county. Upon the filing of any action, the court may, upon a showing of an immediate and serious danger to residents constituting an emergency, issue a temporary injunctive order ex parte. [1990 c 133 § 3; 1989 1st ex.s. c 9 § 258; 1979 c 141 § 55; 1967 ex.s. c 102 § 5. Formerly RCW 43.20A.650 and 43.20.170.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.70.195 Public water systems—Receivership actions brought by secretary—Plan for disposition. (1) In any action brought by the secretary of health or by a local health officer pursuant to chapter 7.60 RCW to place a public water system in receivership, the petition shall include the names of one or more suitable candidates for receiver who have consented to assume operation of the water system. The department shall maintain a list of interested and qualified individuals, municipal entities, special purpose districts, and investor-owned water companies with experience in the provision of water service and a history of satisfactory operation of a water system. If there is no other person willing and able to be named as receiver, the court shall appoint the county in which the water system is located as receiver. The county may designate a county agency to operate the system, or it may contract with another individual or public water system to provide management for the system. If the county is appointed as receiver, the secretary of health and the county health officer shall provide regulatory oversight for the agency or other person responsible for managing the water system.

(2) In any petition for receivership under subsection (1) of this section, the department shall recommend that the court grant to the receiver full authority to act in the best interests of the customers served by the public water system. The receiver shall assess the capability, in conjunction with the department and local government, for the system to operate in compliance with health and safety standards, and shall report to the court and the petitioning agency its recommendations for the system's future operation, including the formation of a water-sewer district or other public entity, or ownership by another existing water system capable of providing service.

(3) If a petition for receivership and verifying affidavit executed by an appropriate departmental official allege an immediate and serious danger to residents constituting an emergency, the court shall set the matter for hearing within three days and may appoint a temporary receiver ex parte upon the strength of such petition and affidavit pending a full evidentiary hearing, which shall be held within fourteen days after receipt of the petition.

(4) A bond, if any is imposed upon a receiver, shall be minimal and shall reasonably relate to the level of operating revenue generated by the system. Any receiver appointed

pursuant to this section shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders.

(5) The court shall authorize the receiver to impose reasonable assessments on a water system's customers to recover expenditures for improvements necessary for the public health and safety.

(6) No later than twelve months after appointment of a receiver, the petitioning agency, in conjunction with the county in which the system is located, and the appropriate state and local health agencies, shall develop and present to the court a plan for the disposition of the system. The report shall include the recommendations of the receiver made pursuant to subsection (2) of this section. The report shall include all reasonable and feasible alternatives. After receiving the report, the court shall provide notice to interested parties and conduct such hearings as are necessary. The court shall then order the parties to implement one of the alternatives, or any combination thereof, for the disposition of the system. Such order shall include a date, or proposed date, for the termination of the receivership. Nothing in this section authorizes a court to require a city, town, public utility district, water-sewer district, or irrigation district to accept a system that has been in receivership unless the city, town, public utility district, water-sewer district, or irrigation district agrees to the terms and conditions outlined in the plan adopted by the court.

(7) The court shall not terminate the receivership, and order the return of the system to the owners, unless the department of health approves of such an action. The court may impose reasonable conditions upon the return of the system to the owner, including the posting of a bond or other security, routine performance and financial audits, employment of qualified operators and other staff or contracted services, compliance with financial viability requirements, or other measures sufficient to ensure the ongoing proper operation of the system.

(8) If, as part of the ultimate disposition of the system, an eminent domain action is commenced by a public entity to acquire the system, the court shall oversee any appraisal of the system conducted under Title 7 RCW to assure that the appraised value properly reflects any reduced value because of the necessity to make improvements to the system. The court shall have the authority to approve the appraisal, and to modify it based on any information provided at an evidentiary hearing. The court's determination of the proper value of the system, based on the appraisal, shall be final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system's ownership be transferred upon payment of the approved appraised value. [1999 c 153 § 57; 1994 c 292 § 3; 1990 c 133 § 4.]

Findings—Intent—1994 c 292: See note following RCW 57.04.050.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.70.200 Enforcement of health laws and state or local rules and regulations upon request of local health officer. Upon the request of a local health officer, the secre-

tary of health is hereby authorized and empowered to take legal action to enforce the public health laws and rules and regulations of the state board of health or local rules and regulations within the jurisdiction served by the local health department, and may institute any civil legal proceeding authorized by the laws of the state of Washington, including a proceeding under Title 7 RCW. [1990 c 133 § 5; 1989 1st ex.s. c 9 § 259; 1979 c 141 § 56; 1967 ex.s. c 102 § 6. Formerly RCW 43.20A.655 and 43.20.180.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.70.210 Right of person to rely on prayer to alleviate ailments not abridged. Nothing in chapter 43.20 or 43.70 RCW, or RCW 43.70.120 shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to alleviate human ailments, sickness or disease, in accordance with the tenets and practice of the Church of Christ, Scientist, nor shall anything in chapters 43.20, 43.70 RCW, or RCW 43.70.120 be deemed to prohibit a person so relying who is inflicted with a contagious or communicable disease from being isolated or quarantined in a private place of his or her own choice, provided, it is approved by the local health officer, and all laws, rules and regulations governing control, sanitation, isolation and quarantine are complied with. [2009 c 549 § 5145; 1989 1st ex.s. c 9 § 260; 1979 c 141 § 59; 1967 ex.s. c 102 § 14. Formerly RCW 43.20A.665 and 43.20.210.]

Prayer: RCW 18.50.030, 70.127.040, 70.128.170, 74.09.190.

Additional notes found at www.leg.wa.gov

43.70.220 Transfer of powers and duties from the department of licensing. The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52C, 18.53, 18.54, 18.55, 18.57, 18.59, 18.71, 18.71A, 18.74, 18.83, 18.84, 18.79, 18.89, 18.92, 18.108, and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health. [2020 c 80 § 29; 1994 sp.s. c 9 § 727; 1989 1st ex.s. c 9 § 301.]

Effective date—2020 c 80 §§ 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Additional notes found at www.leg.wa.gov

43.70.230 Office of health consumer assistance created—Duties. There is created in the department an office of health consumer assistance. The office shall establish a statewide hotline and shall assist and serve as an advocate for consumers who are complainants or witnesses in a licensing or disciplinary proceeding. [1989 1st ex.s. c 9 § 303.]

43.70.240 Written operating agreements. The secretary and each of the professional licensing and disciplinary boards listed in RCW 18.130.040(2)(b) shall enter into written operating agreements on administrative procedures with

input from the regulated profession and the public. The intent of these agreements is to provide a process for the department to consult each board on administrative matters and to ensure that the administration and staff functions effectively enable each board to fulfill its statutory responsibilities in a manner that supports the health care delivery system and evidence-based practices across all health professions. The agreements shall include, but not be limited to, the following provisions:

- (1) Administrative activities supporting the board's policies, goals, and objectives;
- (2) Development and review of the agency budget as it relates to the board;
- (3) Board-related personnel issues;
- (4) Use of performance audits to evaluate the consistent use of common business practices where appropriate; and
- (5) Calculation and reporting of timelines and performance measures.

The agreements shall be reviewed and revised in like manner if appropriate at the beginning of each biennium, and at other times upon written request by the secretary or the board. Any dispute between a board and the department, including the terms of the operating agreement, must be mediated and determined by a representative of the office of financial management. [2013 c 81 § 7; 1998 c 245 § 73; 1989 1st ex.s. c 9 § 304.]

Effective date—2013 c 81: See note following RCW 18.25.0167.

43.70.250 License fees for professions, occupations, and businesses. (1) It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business.

(2) The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. Any and all fees or assessments, or both, levied on the state to cover the costs of the operations and activities of the interstate health professions licensure compacts with participating authorities listed under chapter 18.130 RCW shall be borne by the persons who hold licenses issued pursuant to the authority and procedures established under the compacts. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the cost of regulating licensed volunteer medical workers in accordance with RCW 18.130.360, except as provided in RCW 18.79.202. In no case may the secretary increase a licensing fee for an ambulatory surgical facility licensed under chapter 70.230 RCW during the 2019-2021 fiscal biennium, nor may he or she commence the adoption of rules to increase a licensing fee during the 2019-2021 fiscal biennium.

(3) All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW. [2019 c 415 § 966; 2017 c 195 § 26; 2016 c 146 § 1; 2013 c 77 § 2; 2006 c 72 § 4; 2005 c 268 § 3; 1996 c 191 § 1; 1989 1st ex.s. c 9 § 319.]

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2013 c 77: See note following RCW 43.70.110.

Finding—2005 c 268: See note following RCW 18.79.202.

43.70.260 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The secretary may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of health, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1989 1st ex.s. c 9 § 320.]

43.70.270 License moratorium for persons in the service—Rules. (1) Notwithstanding any provision of law to the contrary, the license of any person licensed by the secretary of health to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces, the United States public health service commissioned corps, or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period.

(2) If requested by the licensee, the license of a spouse or registered domestic partner of a servicemember in the United States armed forces, including the United States public health service commissioned corps, if valid and in force and effect at the time the servicemember is deployed or stationed in a location outside Washington state, must be placed in inactive military spouse or registered domestic partner status so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall return to active status the license of every such person who applies for renewal thereof within six months after the servicemember is honorably discharged from service, or sooner if requested by the licensee, upon payment of the renewal fee applicable to the then current year or other license period.

(3) The secretary may adopt any rules necessary to implement this section. [2012 c 45 § 2; 1989 1st ex.s. c 9 § 321.]

43.70.280 Procedure for issuance, renewal, or reissuance of credentials—Extension or modification of licensing, certification, or registration period authorized. (1) The secretary, in consultation with health profession boards and commissions, shall establish by rule the administrative procedures, administrative requirements, and fees for initial

issue, renewal, and reissue of a credential for professions under RCW 18.130.040, including procedures and requirements for late renewals and uniform application of late renewal penalties. Failure to renew invalidates the credential and all privileges granted by the credential. Administrative procedures and administrative requirements do not include establishing, monitoring, and enforcing qualifications for licensure, scope or standards of practice, continuing competency mechanisms, and discipline when such authority is authorized in statute to a health profession board or commission. For the purposes of this section, "in consultation with" means providing an opportunity for meaningful participation in development of rules consistent with processes set forth in RCW 34.05.310.

(2) Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter including those under RCW 18.130.040, the secretary of health may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the secretary determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period. [1999 c 34 § 1; 1998 c 29 § 1; 1996 c 191 § 2; 1989 1st ex.s. c 9 § 322.]

43.70.290 Funeral directors and embalmers subject to chapter 18.130 RCW. Funeral directors and embalmers, licensed under chapter 18.39 RCW, are subject to the provisions of chapter 18.130 RCW under the administration of the department of licensing. The department of licensing shall review the statutes authorizing the regulation of funeral directors and embalmers, and recommend any changes necessary by January 1, 1990. [1989 1st ex.s. c 9 § 323.]

43.70.300 Secretary or secretary's designee ex officio member of health professional licensure and disciplinary boards. In order to provide liaison with the department of health, provide continuity between changes in board membership, achieve uniformity as appropriate in licensure or regulated activities under the jurisdiction of the department, and to better represent the public interest, the secretary, or a designee appointed by the secretary, shall serve as an ex officio member of every health professional licensure or disciplinary board established under Title 18 RCW under the administrative authority of the department of health. The secretary shall have no vote unless otherwise authorized by law. [1989 1st ex.s. c 9 § 318; 1983 c 168 § 11. Formerly RCW 43.24.015.]

43.70.310 Cooperation with department of ecology. Where feasible, the department and the state board of health shall consult with the department of ecology in order that, to

the fullest extent possible, agencies concerned with the preservation of life and health and agencies concerned with protection of the environment may integrate their efforts and endorse policies in common. [1987 c 109 § 25; 1970 ex.s. c 18 § 12. Formerly RCW 43.20A.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.70.320 Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds. (1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, compact privileges, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department shall be paid from the account as authorized by legislative appropriation, except as provided in subsections (4) and (5) of this section. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees.

(4) The fees received by the department from applicants for compact privilege under RCW 18.74.500 must be used for the purpose of meeting financial obligations imposed on the state as a result of this state's participation in the physical therapy licensure compact.

(5) The secretary shall, at the request of a board or commission as applicable, spend unappropriated funds in the health professions account that are allocated to the requesting board or commission to meet unanticipated costs of that board or commission when revenues exceed more than fifteen percent over the department's estimated six-year spending projections for the requesting board or commission. Unanticipated costs shall be limited to spending as authorized in subsection (3) of this section for anticipated costs. [2019 c 220 § 1; 2017 c 108 § 7; 2015 c 70 § 39; 2008 c 134 § 16; 1993 c 492 § 411; 1991 sp.s. c 13 § 18; 1991 c 3 § 299; 1985 c 57 § 29; 1983 c 168 § 5. Formerly RCW 43.24.072.]

Effective date—2019 c 220: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 220 § 3.]

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.323 Hospital infection control grant account. The hospital infection control grant account is created in the custody of the state treasury. All receipts from gifts, grants, bequests, devises, or other funds from public or private

sources to support its activities must be deposited into the account. Expenditures from the account may be used only for awarding hospital infection control grants to hospitals and public agencies for establishing and maintaining hospital infection control and surveillance programs, for providing support for such programs, and for the administrative costs associated with the grant program. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2007 c 261 § 5.]

Findings—2007 c 261: See note following RCW 43.70.056.

43.70.327 Public health supplemental account—Annual statement. (1) The public health supplemental account is created in the state treasury. All receipts from gifts, bequests, devises, or funds, whose use is determined to further the purpose of maintaining and improving the health of Washington residents through the public health system, and all receipts from breast cancer awareness special license plate fees collected under *RCW 46.17.220(1)(e), must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for maintaining and improving the health of Washington residents through the public health system, which may include funding for staff[,] and as specified under RCW 46.68.425(2).

(2) The department shall file an annual statement of the financial condition, transactions, and affairs of any program funded under this section in a form and manner prescribed by the office of financial management. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate. [2014 c 94 § 1; 2014 c 77 § 4; 2001 c 80 § 3.]

Reviser's note: *(1) RCW 46.17.220 was amended by 2018 c 67 § 4, changing subsection (1)(e) to subsection (4), effective January 1, 2019.

(2) This section was amended by 2014 c 77 § 4 and by 2014 c 94 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2014 c 77: See note following RCW 46.18.200.

Findings—Intent—2001 c 80: See note following RCW 43.70.040.

43.70.334 Temporary worker housing—Definition. For the purposes of RCW 43.70.335, 43.70.337, and 43.70.340, "temporary worker housing" has the same meaning as provided in RCW 70.114A.020. [1999 c 374 § 9.]

43.70.335 Temporary worker housing operating license—Fee—Display—Suspension or revocation—Fines—Refunds—Rules—Application of department of labor and industries standards. (1) Any person providing temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person providing temporary worker housing who makes the election to comply with the temporary worker building code under RCW 70.114A.081(1)(g), shall secure an annual operating license prior to occupancy and shall pay a fee according to RCW 43.70.340. The license shall be conspicuously displayed on-site.

(2) Licenses issued under this chapter may be suspended or revoked upon the failure or refusal of the person providing temporary worker housing to comply with rules adopted under this section or chapter 70.114A RCW by the department. All such proceedings shall be governed by the provisions of chapter 34.05 RCW.

(3) The department may assess a civil fine in accordance with RCW 43.70.095 for failure or refusal to obtain a license prior to occupancy of temporary worker housing. The department may refund all or part of the civil fine collected once the operator obtains a valid operating license.

(4) Civil fines under this section shall not exceed twice the cost of the license plus the cost of the initial on-site inspection for the first violation of this section, and shall not exceed ten times the cost of the license plus the cost of the initial on-site inspection for second and subsequent violations within any five-year period. The department may adopt rules as necessary to assure compliance with this section. [1999 c 374 § 10; 1998 c 37 § 5.]

43.70.337 Temporary worker housing building permit—Plans and specifications—Fees—Rules. (1) Any person who constructs, alters, or makes an addition to temporary worker housing consisting of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants, or any person who constructs, alters, or makes an addition to temporary worker housing who elects to comply with the temporary worker building code under RCW 70.114A.081(1)(g), shall:

(a) Submit plans and specifications for the alteration, addition, or new construction of this housing prior to beginning any alteration, addition, or new construction on this housing;

(b) Apply for and obtain a temporary worker housing building permit from the department prior to construction or alteration of this housing; and

(c) Submit a plan review and permit fee to the department of health pursuant to RCW 43.70.340.

(2) The department shall adopt rules as necessary, for the application procedures for the temporary worker housing plan review and permit process.

(3) Any alteration of a manufactured structure to be used for temporary worker housing remains subject to chapter 43.22 RCW, and the rules adopted under chapter 43.22 RCW. [1998 c 37 § 6.]

43.70.340 Temporary worker housing inspection fund—Fees on temporary worker housing operating licenses and building permits—Licenses generally. (1) The temporary worker housing fund is established in the custody of the state treasury. The department shall deposit all funds received under subsections (2) and (3) of this section and from the legislature to administer a temporary worker housing permitting, licensing, and inspection program conducted by the department. Disbursement from the fund shall be on authorization of the secretary of health or the secretary's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

(2) There is imposed a fee on each operating license issued by the department to every operator of temporary

worker housing that is regulated by the state board of health. In establishing the fee to be paid under this subsection the department shall consider the cost of administering a license as well as enforcing applicable state board of health rules on temporary worker housing.

(3) There is imposed a fee on each temporary worker housing building permit issued by the department to every operator of temporary worker housing as required by RCW 43.70.337. The fee shall include the cost of administering a permit as well as enforcing the department's temporary worker building code as adopted under RCW 70.114A.081.

(4) The department shall conduct a fee study for:

(a) A temporary worker housing operator's license;

(b) On-site inspections; and

(c) A plan review and building permit for new construction.

After completion of the study, the department shall adopt these fees by rule by no later than December 31, 1998.

(5) The term of the operating license and the application procedures shall be established, by rule, by the department. [1998 c 37 § 7; 1990 c 253 § 3.]

Legislative finding and purpose—1990 c 253: "The legislature finds that the demand for housing for migrant and seasonal farmworkers far exceeds the supply of adequate housing in the state of Washington. In addition, increasing numbers of these housing units are in deteriorated condition because they cannot be economically maintained and repaired.

The legislature further finds that the lack of a clear program for the regulation and inspection of farmworker housing has impeded the construction and renovation of housing units in this state.

It is the purpose of this act for the various agencies involved in the regulation of farmworker housing to coordinate and consolidate their activities to provide for efficient and effective monitoring of farmworker housing. It is intended that this action will provide greater responsiveness in dealing with public concerns over farmworker housing, and allow greater numbers of housing units to be built." [1990 c 253 § 1.]

43.70.400 Head injury prevention—Legislative finding. The legislature finds that head injury is a major cause of death and disability for Washington citizens. The costs of head injury treatment and rehabilitation are extensive and resultant disabilities are long and indeterminate. These costs are often borne by public programs such as medicaid. The legislature finds further that many such injuries are preventable. The legislature intends to reduce the occurrence of head injury by educating persons whose behavior may place them at risk and by regulating certain activities. [1990 c 270 § 2.]

43.70.410 Head injury prevention—Program, generally. As used in RCW 43.70.400 through 43.70.440, the term "head injury" means traumatic brain injury.

A head injury prevention program is created in the department of health. The program's functions may be integrated with those of similar programs to promote comprehensive, integrated, and effective health promotion and disease prevention.

In consultation with the traffic safety commission, the department shall, directly or by contract, identify and coordinate public education efforts currently underway within state government and among private groups to prevent traumatic brain injury, including, but not limited to, bicycle safety, pedestrian safety, bicycle passenger seat safety, motorcycle safety, motor vehicle safety, and sports safety. If the department finds that programs are not available or not in use, it

may, within funds appropriated for the purpose, provide grants to promote public education efforts. Grants may be awarded only after recipients have demonstrated coordination with relevant and knowledgeable groups within their communities, including at least schools, brain injury support organizations, hospitals, physicians, traffic safety specialists, police, and the public. The department may accept grants, gifts, and donations from public or private sources to use to carry out the head injury prevention program.

The department may assess or contract for the assessment of the effectiveness of public education efforts coordinated or initiated by any agency of state government. Agencies are directed to cooperate with assessment efforts by providing access to data and program records as reasonably required. The department may seek and receive additional funds from the federal government or private sources for assessments. Assessments shall contain findings and recommendations that will improve the effectiveness of public education efforts. These findings shall be distributed among public and private groups concerned with traumatic brain injury prevention. [1990 c 270 § 3.]

Bicycle awareness program: RCW 43.43.390.

43.70.420 Head injury prevention—Information preparation. The department of health, the department of licensing, and the traffic safety commission shall jointly prepare information for driver license manuals, driver education programs, and driving tests to increase driver awareness of pedestrian safety, to increase driver skills in avoiding pedestrian and motor vehicle accidents, and to determine drivers' abilities to avoid pedestrian motor vehicle accidents. [1990 c 270 § 4.]

43.70.430 Head injury prevention—Guidelines on training and education—Training of emergency medical personnel. The department shall prepare guidelines on relevant training and education regarding traumatic brain injury for health and education professionals, and relevant public safety and law enforcement officials. The department shall distribute such guidelines and any recommendations for training or educational requirements for health professionals or educators to the disciplinary authorities governed by chapter 18.130 RCW and to educational service districts established under chapter 28A.310 RCW. Specifically, all emergency medical personnel shall be trained in proper helmet removal. [1990 c 270 § 6.]

43.70.435 Diagnosed concussions of students—Report. (1) The department must develop a procedure to, beginning in the 2020-21 school year, collect the information related to the diagnosed concussions of students as described in RCW 28A.600.192.

(2) Beginning October 1, 2021, by October 1st annually thereafter, and in compliance with RCW 43.01.036, the department shall report a summary of the diagnosed concussion information received in the prior school year to the appropriate committees of the legislature and the office of the superintendent of public instruction. The report must include rates, patterns, trends, and other relevant information. [2020 c 347 § 2.]

43.70.440 Head injury prevention act—Short title—1990 c 270. This act shall be known and cited as the Head Injury Prevention Act of 1990. [1990 c 270 § 1.]

43.70.442 Suicide assessment, treatment, and management training—Requirement for certain professionals—Exemptions—Model list of programs—Rules—Health profession training standards provided to the professional educator standards board. (1)(a) Each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete training in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

(i) An adviser or counselor certified under chapter 18.19 RCW;

(ii) A substance use disorder professional licensed under chapter 18.205 RCW;

(iii) A marriage and family therapist licensed under chapter 18.225 RCW;

(iv) A mental health counselor licensed under chapter 18.225 RCW;

(v) An occupational therapy practitioner licensed under chapter 18.59 RCW;

(vi) A psychologist licensed under chapter 18.83 RCW;

(vii) An advanced social worker or independent clinical social worker licensed under chapter 18.225 RCW; and

(viii) A social worker associate—advanced or social worker associate—independent clinical licensed under chapter 18.225 RCW.

(b) The requirements in (a) of this subsection apply to a person holding a retired active license for one of the professions in (a) of this subsection.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (1)(d) affects the validity of training completed prior to July 1, 2017.

(2)(a) Except as provided in (b) of this subsection:

(i) A professional listed in subsection (1)(a) of this section must complete the first training required by this section by the end of the first full continuing education reporting period after January 1, 2014, or during the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(ii) Beginning July 1, 2021, the second training for a psychologist, a marriage and family therapist, a mental health counselor, an advanced social worker, an independent clinical social worker, a social worker associate-advanced, or a social worker associate-independent clinical must be either: (A) An advanced training focused on suicide management, suicide care protocols, or effective treatments; or (B) a training in a treatment modality shown to be effective in working with people who are suicidal, including dialectical behavior therapy, collaborative assessment and management of suicide risk, or cognitive behavior therapy-suicide prevention. If a

professional subject to the requirements of this subsection has already completed the professional's second training prior to July 1, 2021, the professional's next training must comply with this subsection. This subsection (2)(a)(ii) does not apply if the licensee demonstrates that the training required by this subsection (2)(a)(ii) is not reasonably available.

(b)(i) A professional listed in subsection (1)(a) of this section applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in subsection (1) of this section no more than six years prior to the application for initial licensure.

(ii) Beginning July 1, 2021, a psychologist, a marriage and family therapist, a mental health counselor, an advanced social worker, an independent clinical social worker, a social worker associate-advanced, or a social worker associate-independent clinical exempt from his or her first training under (b)(i) of this subsection must comply with the requirements of (a)(ii) of this subsection for his or her first training after initial licensure. If a professional subject to the requirements of this subsection has already completed the professional's first training after initial licensure, the professional's next training must comply with this subsection (2)(b)(ii). This subsection (2)(b)(ii) does not apply if the licensee demonstrates that the training required by this subsection (2)(b)(ii) is not reasonably available.

(3) The hours spent completing training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt an individual professional from the training requirements in subsections (1) and (5) of this section. Nothing in this subsection (4)(a) allows a disciplining authority to provide blanket exemptions to broad categories or specialties within a profession.

(b) A disciplining authority may exempt a professional from the training requirements of subsections (1) and (5) of this section if the professional has only brief or limited patient contact.

(5)(a) Each of the following professionals credentialed under Title 18 RCW shall complete a one-time training in suicide assessment, treatment, and management that is approved by the relevant disciplining authority:

- (i) A chiropractor licensed under chapter 18.25 RCW;
- (ii) A naturopath licensed under chapter 18.36A RCW;
- (iii) A licensed practical nurse, registered nurse, or advanced registered nurse practitioner, other than a certified registered nurse anesthetist, licensed under chapter 18.79 RCW;
- (iv) An osteopathic physician and surgeon licensed under chapter 18.57 RCW, other than a holder of a postgraduate osteopathic medicine and surgery license issued under RCW 18.57.035;

(v) A physical therapist or physical therapist assistant licensed under chapter 18.74 RCW;

(vi) A physician licensed under chapter 18.71 RCW, other than a resident holding a limited license issued under RCW 18.71.095(3);

(vii) A physician assistant licensed under chapter 18.71A RCW;

(viii) A pharmacist licensed under chapter 18.64 RCW;

(ix) A dentist licensed under chapter 18.32 RCW;

(x) A dental hygienist licensed under chapter 18.29 RCW;

(xi) An athletic trainer licensed under chapter 18.250 RCW;

(xii) An optometrist licensed under chapter 18.53 RCW;

(xiii) An acupuncture and Eastern medicine practitioner licensed under chapter 18.06 RCW; and

(xiv) A person holding a retired active license for one of the professions listed in (a)(i) through (xiii) of this subsection.

(b)(i) A professional listed in (a)(i) through (vii) of this subsection or a person holding a retired active license for one of the professions listed in (a)(i) through (vii) of this subsection must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2016, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(ii) A licensed pharmacist or a person holding a retired active pharmacist license must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2017, or during the first full continuing education reporting period after initial licensure, whichever is later.

(iii) A licensed dentist, a licensed dental hygienist, or a person holding a retired active license as a dentist shall complete the one-time training by the end of the full continuing education reporting period after August 1, 2020, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between July 23, 2017, and August 1, 2020, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b)(iii), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(iv) A licensed optometrist or a licensed acupuncture and Eastern medicine practitioner, or a person holding a retired active license as an optometrist or an acupuncture and Eastern medicine practitioner, shall complete the one-time training by the end of the full continuing education reporting period after August 1, 2021, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between August 1, 2020, and August 1, 2021, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b)(iv), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has

determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (5)(d) affects the validity of training completed prior to July 1, 2017.

(6)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management. Beginning July 1, 2021, for purposes of subsection (2)(a)(ii) of this section, the model list must include advanced training and training in treatment modalities shown to be effective in working with people who are suicidal.

(b) The secretary and the disciplining authorities shall update the list at least once every two years.

(c) By June 30, 2016, the department shall adopt rules establishing minimum standards for the training programs included on the model list. The minimum standards must require that six-hour trainings include content specific to veterans and the assessment of issues related to imminent harm via lethal means or self-injurious behaviors and that three-hour trainings for pharmacists or dentists include content related to the assessment of issues related to imminent harm via lethal means. When adopting the rules required under this subsection (6)(c), the department shall:

(i) Consult with the affected disciplining authorities, public and private institutions of higher education, educators, experts in suicide assessment, treatment, and management, the Washington department of veterans affairs, and affected professional associations; and

(ii) Consider standards related to the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(d) Beginning January 1, 2017:

(i) The model list must include only trainings that meet the minimum standards established in the rules adopted under (c) of this subsection and any three-hour trainings that met the requirements of this section on or before July 24, 2015;

(ii) The model list must include six-hour trainings in suicide assessment, treatment, and management, and three-hour trainings that include only screening and referral elements; and

(iii) A person or entity providing the training required in this section may petition the department for inclusion on the model list. The department shall add the training to the list only if the department determines that the training meets the minimum standards established in the rules adopted under (c) of this subsection.

(e) By January 1, 2021, the department shall adopt minimum standards for advanced training and training in treatment modalities shown to be effective in working with people who are suicidal. Beginning July 1, 2021, all such training on the model list must meet the minimum standards. When adopting the minimum standards, the department must consult with the affected disciplining authorities, public and private institutions of higher education, educators, experts in suicide assessment, treatment, and management, the Wash-

ington department of veterans affairs, and affected professional associations.

(7) The department shall provide the health profession training standards created in this section to the professional educator standards board as a model in meeting the requirements of RCW 28A.410.226 and provide technical assistance, as requested, in the review and evaluation of educator training programs. The educator training programs approved by the professional educator standards board may be included in the department's model list.

(8) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(9) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(10) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training in suicide assessment, treatment, and management" means empirically supported training approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. However, the disciplining authority may approve training that includes only screening and referral elements if appropriate for the profession in question based on the profession's scope of practice. The board of occupational therapy may also approve training that includes only screening and referral elements if appropriate for occupational therapy practitioners based on practice setting.

(11) A state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(12) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion. [2020 c 229 § 1; 2020 c 80 § 30. Prior: 2019 c 444 § 13; (2019 c 444 § 12 expired August 1, 2020); 2019 c 358 § 5; (2019 c 358 § 4 expired August 1, 2020); 2017 c 262 § 4; 2016 c 90 § 5; 2015 c 249 § 1; 2014 c 71 § 2; prior: 2013 c 78 § 1; 2013 c 73 § 6; 2012 c 181 § 2.]

Reviser's note: This section was amended by 2020 c 80 § 30 and by 2020 c 229 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2020 c 229 § 1: "Section 1 of this act takes effect August 1, 2020." [2020 c 229 § 4.]

Effective date—2020 c 80 §§ 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Effective dates—2019 c 444 §§ 13 and 19: "(1) Section 13 of this act takes effect August 1, 2020.

(2) Section 19 of this act takes effect July 1, 2026." [2019 c 444 § 32.]

Expiration dates—2019 c 444 §§ 12 and 18: "(1) Section 12 of this act expires August 1, 2020.

(2) Section 18 of this act expires July 1, 2026." [2019 c 444 § 33.]

Effective date—2019 c 358 § 5: "Section 5 of this act takes effect August 1, 2020." [2019 c 358 § 8.]

Expiration date—2019 c 358 § 4: "Section 4 of this act expires August 1, 2020." [2019 c 358 § 7.]

Effective date—2017 c 262 § 4: "Section 4 of this act takes effect August 1, 2020." [2017 c 262 § 7.]

Findings—Intent—2017 c 262: "The legislature finds that over one thousand one hundred suicide deaths occur each year in Washington and these suicide deaths take an enormous toll on families and communities across the state. The legislature further finds that: Sixty-five percent of all suicides, and most suicide deaths and attempts for young people ages ten to eighteen, occur using firearms and prescription medications that are easily accessible in homes; firearms are the most lethal method used in suicide and almost entirely account for more men dying by suicide than women; sixty-seven percent of all veteran deaths by suicide are by firearm; and nearly eighty percent of all deaths by firearms in Washington are suicides. The legislature further finds that there is a need for a robust public education campaign designed to raise awareness of suicide and to teach everyone the role that he or she can play in suicide prevention. The legislature further finds that important suicide prevention efforts include: Motivating households to improve safe storage practices to reduce deaths from firearms and prescription medications; decreasing barriers to prevent access to lethal means by allowing for temporary and voluntary transfers of firearms when individuals are at risk for suicide; increasing access to drug take-back sites; and making the public aware of suicide prevention steps, including recognizing warning signs, empathizing and listening, asking directly about suicide, removing dangers to ensure immediate safety, and getting help. The legislature intends by this act to create a public-private partnership fund to implement a suicide-safer home public education campaign in the coming years." [2017 c 262 § 1.]

Effective date—2016 c 90 § 5: "Section 5 of this act takes effect January 1, 2017." [2016 c 90 § 8.]

Findings—2016 c 90: "The legislature finds that: Washington's suicide rate is fourteen percent higher than the national average; on average, two young people between the ages of ten and twenty-four die by suicide each week; almost a quarter of those who die by suicide are veterans; and many of the state's rural and tribal communities have the highest suicide rates. The legislature further finds that when suicide occurs, it has devastating consequences for communities and schools, yet, according to the United States surgeon general, suicide is the nation's most preventable form of death. The legislature further finds that one of the most immediate ways to reduce the tragedy of suicide is through suicide awareness and prevention education coupled with safe storage of lethal means commonly used in suicides, such as firearms and prescription medications. The legislature further finds that encouraging firearms dealers to voluntarily participate in suicide awareness and prevention education programs and provide certain safe storage devices at cost is an important step in creating safer homes and reducing suicide deaths in the state." [2016 c 90 § 1.]

Findings—Intent—2014 c 71; 2012 c 181: "(1) The legislature finds that:

(a) According to the centers for disease control and prevention:

(i) In 2008, more than thirty-six thousand people died by suicide in the United States, making it the tenth leading cause of death nationally.

(ii) During 2007-2008, an estimated five hundred sixty-nine thousand people visited hospital emergency departments with self-inflicted injuries in the United States, seventy percent of whom had attempted suicide.

(iii) During 2008-2009, the average percentages of adults who thought, planned, or attempted suicide in Washington were higher than the national average.

(b) According to a national study, veterans face an elevated risk of suicide as compared to the general population, more than twice the risk among male veterans. Another study has indicated a positive correlation between posttraumatic stress disorder and suicide.

(i) Washington state is home to more than sixty thousand men and women who have deployed in support of the wars in Iraq and Afghanistan.

(ii) Research continues on how the effects of wartime service and injuries, such as traumatic brain injury, posttraumatic stress disorder, or other

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service-related conditions, may increase the number of veterans who attempt suicide.

(iii) As more men and women separate from the military and transition back into civilian life, community mental health providers will become a vital resource to help these veterans and their families deal with issues that may arise.

(c) Suicide has an enormous impact on the family and friends of the victim as well as the community as a whole.

(d) Approximately ninety percent of people who die by suicide had a diagnosable psychiatric disorder at the time of death, such as depression. Most suicide victims exhibit warning signs or behaviors prior to an attempt.

(e) Improved training and education in suicide assessment, treatment, and management has been recommended by a variety of organizations, including the United States department of health and human services and the institute of medicine.

(2) It is therefore the intent of the legislature to help lower the suicide rate in Washington by requiring certain health professionals to complete training in suicide assessment, treatment, and management as part of their continuing education, continuing competency, or recertification requirements.

(3) The legislature does not intend to expand or limit the existing scope of practice of any health professional affected by this act." [2014 c 71 § 1; 2012 c 181 § 1.]

Short title—2012 c 181: "This act may be known and cited as the Matt Adler suicide assessment, treatment, and management training act of 2012." [2012 c 181 § 4.]

43.70.443 Study of evidence-based suicide assessment, treatment, and management training—Report—Updates. (Expires December 31, 2022.) (1) The secretary shall update the report required by section 3, chapter 181, Laws of 2012 in 2018 and again in 2022 and report the results to the governor and the appropriate committees of the legislature by November 15, 2018, and November 15, 2022.

(2) This section expires December 31, 2022. [2014 c 71 § 5.]

43.70.444 Washington plan for suicide prevention—Steering committee—Report. (1) The secretary, in consultation with the steering committee convened in subsection (3) of this section, shall develop a Washington plan for suicide prevention. The plan must, at a minimum:

(a) Examine data relating to suicide in order to identify patterns and key demographic factors;

(b) Identify key risk and protective factors relating to suicide; and

(c) Identify goals, action areas, and implementation strategies relating to suicide prevention.

(2) When developing the plan, the secretary shall consider national research and practices employed by the federal government, tribal governments, and other states, including the national strategy for suicide prevention. The plan must be written in a manner that is accessible, and useful to, a broad audience. The secretary shall periodically update the plan as needed.

(3) The secretary shall convene a steering committee to advise him or her in the development of the Washington plan for suicide prevention. The committee must consist of representatives from the following:

(a) Experts on suicide assessment, treatment, and management;

(b) Institutions of higher education;

(c) Tribal governments;

(d) The department of social and health services;

(e) The state department of veterans affairs;

(f) Suicide prevention advocates, at least one of whom must be a suicide survivor and at least one of whom must be a survivor of a suicide attempt;

(g) Primary care providers;

(h) Local health departments or districts; and

(i) Any other organizations or groups the secretary deems appropriate.

(4) The secretary shall complete the plan no later than November 15, 2015, publish the report on the department's website, and submit copies to the governor and the relevant standing committees of the legislature. [2014 c 71 § 4.]

43.70.446 Suicide-safer homes project—Suicide-safer homes project account. (1) The suicide-safer homes project is created within the department of health for the purpose of accepting private funds for use by the suicide-safer homes task force created in *RCW 43.70.445 in developing and providing suicide education and prevention materials, training, and outreach programs to help create suicide-safer homes. The secretary may accept gifts, grants, donations, or moneys from any source for deposit in the suicide-safer homes project account created in subsection (2) of this section.

(2) The suicide-safer homes project account is created in the custody of the state treasurer. The account shall consist of funds appropriated by the legislature for the suicide-safer homes project account and all receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support the activities of the suicide-safer homes project. Only the secretary of the department of health, or the secretary's designee, may authorize expenditures from the account to fund projects identified and prioritized by the suicide-safer homes task force. Funds deposited in the suicide-safer homes project account may be used for the development and production of suicide prevention materials and training programs, for providing financial incentives to encourage firearms dealers and others to participate in suicide prevention training, and to implement pilot programs involving community outreach on creating suicide-safer homes.

(3) The suicide-safer homes project account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2017 c 262 § 3.]

*Reviser's note: RCW 43.70.445 expired July 1, 2021.

Findings—Intent—2017 c 262: See note following RCW 43.70.442.

43.70.447 Suicide assessment, treatment, and management—Curriculum for dental students and dentists.

(1) By July 1, 2020, the school of dentistry at the University of Washington shall develop a curriculum on suicide assessment, treatment, and management for dental students and licensed dentists. The curriculum must meet the minimum standards established under RCW 43.70.442 and must include material on identifying at-risk patients and limiting access to lethal means. When developing the curriculum, the school of dentistry must consult with experts on suicide assessment, treatment, and management and with the suicide-safer homes task force established in *RCW 43.70.445. The school of dentistry shall submit a progress report to the governor and the relevant committees of the legislature by July 1, 2019.

(2) The dental quality assurance commission shall, for purposes of RCW 43.70.442(4)(a), consider a dentist who has successfully completed the curriculum developed under subsection (1) of this section prior to licensure as possessing the minimum training and experience necessary to be exempt from the training requirements in RCW 43.70.442. [2017 c 262 § 5.]

*Reviser's note: RCW 43.70.445 expired July 1, 2021.

Findings—Intent—2017 c 262: See note following RCW 43.70.442.

43.70.452 Agricultural industry workforce behavioral health improvement and suicide prevention—Pilot program.

(1) Subject to the availability of amounts appropriated for this specific purpose not to exceed two hundred thousand dollars per fiscal year, the department shall establish a pilot program to support behavioral health improvement and suicide prevention efforts for members of the agricultural industry workforce. By March 1, 2019, the pilot program shall be established in a county west of the Cascade crest that is reliant on the agricultural industry.

(2) When implementing the pilot program, the department shall consider the report of the task force on behavioral health and suicide prevention in the agricultural industry established in section 2, chapter 95, Laws of 2018.

(3) In implementing the pilot program, the department shall contract with an entity that has behavioral health and suicide prevention expertise to develop a free resource for workers in the agricultural industry. When selecting an entity, the department shall seek to use an entity that has an existing telephonic and web-based resource, including entities that have prepared similar resources for other states. The contracting entity must be responsible for constructing and hosting the free resource and linking the free resource to the websites of the department, the department of agriculture, and other relevant stakeholders.

(4) At a minimum, the free resource must:

(a) Be made publicly available through a web-based portal or a telephone support line;

(b) Provide a resource to train agricultural industry management, workers, and their family members in suicide risk recognition and referral skills;

(c) Provide a resource to build capacity within the agricultural industry to train individuals to deliver training in person;

(d) Contain model crisis protocols that address behavioral health crisis and suicide risk identification, intervention, reentry, and postvention;

(e) Contain model marketing materials and messages that promote behavioral health in the agricultural industry; and

(f) Be made available in English and Spanish.

(5) A preliminary report shall be made to the legislature on the elements and implementation of the pilot program by December 1, 2019. A final report containing information about results of the pilot program and recommendations for improving the pilot program and expanding its availability to other counties shall be made to the legislature by December 1, 2020. [2018 c 95 § 3.]

Findings—2018 c 95: "(1) The legislature finds that the agricultural industry is an integral part of Washington's economy and sense of common

identity, and that the behavioral health of workers in the industry and their family members is a statewide concern.

(2) Several factors related to the agricultural industry may affect the behavioral health of workers in the agricultural industry, including job-related isolation and demands, stressful work environments, the heightened potential for financial losses, lack of access to behavioral health services, and barriers to or unwillingness to seek mental health services.

(3) A 2016 report from the federal centers for disease control and prevention studied suicide data from the year 2012 and found that workers in the farming, fishing, and forestry industries had the highest rate of suicide, eighty-four and one-half suicides per one hundred thousand workers, among the occupational groups that it studied.

(4) The legislature finds that there is an urgent need to develop resources and interventions specifically targeted to helping workers in the agricultural industry and their family members manage their behavioral health needs." [2018 c 95 § 1.]

43.70.460 Retired primary and specialty care provider liability malpractice insurance—Program authorized. (1) The department may establish a program to purchase and maintain liability malpractice insurance for retired primary and specialty care providers who provide health care services to low-income patients. The following conditions apply to the program:

(a) Health care services shall be provided at clinics serving low-income patients that are public or private tax-exempt corporations or other established practice settings as defined by the department;

(b) Health care services provided at the clinics shall be offered to low-income patients based on their ability to pay;

(c) Retired health care providers providing health care services shall not receive compensation for their services; and

(d) The department shall contract only with a liability insurer authorized to offer liability malpractice insurance in the state.

(e) Specialists in this program will be limited to those whose malpractice insurance premiums are comparable to primary care providers.

(2) This section and RCW 43.70.470 shall not be interpreted to require a liability insurer to provide coverage to a health care provider should the insurer determine that coverage should not be offered to a health care provider because of past claims experience or for other appropriate reasons.

(3) The state and its employees who operate the program shall be immune from any civil or criminal action involving claims against clinics or health care providers that provided health care services under this section and RCW 43.70.470. This protection of immunity shall not extend to any clinic or health care provider participating in the program.

(4) The department may monitor the claims experience of retired health care providers covered by liability insurers contracting with the department.

(5) The department may provide liability insurance under chapter 113, Laws of 1992 only to the extent funds are provided for this purpose by the legislature. If there are insufficient funds to support all applications for liability insurance coverage, priority shall be given to those retired health care providers working at clinics operated by public or private tax-exempt corporations rather than clinics operated by for-profit corporations. [2005 c 156 § 1; 2004 c 184 § 1; 1993 c 492 § 276; 1992 c 113 § 2.]

Finding—1993 c 492: See note following RCW 28B.115.080.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.470 Retired health care provider liability malpractice insurance—Conditions. The department may establish by rule the conditions of participation in the liability insurance program by retired health care providers at clinics utilizing retired health care providers for the purposes of this section and RCW 43.70.460. These conditions shall include, but not be limited to, the following:

(1) The participating health care provider associated with the clinic shall hold a valid license to practice as a physician under chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a physician assistant under chapter 18.71A RCW, an advanced registered nurse practitioner under chapter 18.79 RCW, a dentist under chapter 18.32 RCW, or other health professionals as may be deemed in short supply by the department. All health care providers must be in conformity with current requirements for licensure, including continuing education requirements;

(2) Health care shall be limited to noninvasive procedures and shall not include obstetrical care. Noninvasive procedures include injections, suturing of minor lacerations, and incisions of boils or superficial abscesses. Primary dental care shall be limited to diagnosis, oral hygiene, restoration, and extractions and shall not include orthodontia, or other specialized care and treatment;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering health care services pursuant to this section and RCW 43.70.460;

(4) The participating health care provider shall limit the provision of health care services to primarily low-income persons provided that clinics may, but are not required to, provide means tests for eligibility as a condition for obtaining health care services;

(5) The participating health care provider shall not accept compensation for providing health care services from patients served pursuant to this section and RCW 43.70.460, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating health care provider for services provided by the health care provider, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating health care provider authorized by the clinic in advance of being incurred; and

(6) The use of mediation or arbitration for resolving questions of potential liability may be used, however any mediation or arbitration agreement format shall be expressed in terms clear enough for a person with a sixth grade level of education to understand, and on a form no longer than one page in length. [2020 c 80 § 31; 2005 c 156 § 2; 2004 c 184 § 2; 1993 c 492 § 277; 1992 c 113 § 3.]

Effective date—2020 c 80 §§ 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Finding—1993 c 492: See note following RCW 28B.115.080.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.480 Emergency medical personnel—Futile treatment and natural death directives—Guidelines. The department of health shall adopt guidelines and protocols for

how emergency medical personnel shall respond when summoned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment.

The guidelines shall include development of a simple form that shall be used statewide. [2000 c 70 § 1; 1992 c 98 § 14.]

Additional notes found at www.leg.wa.gov

43.70.490 Emergency medical service personnel training program—Assistance to persons with disabilities—Requirements—Law enforcement officer training—Definitions. (1) Subject to the availability of amounts appropriated for this specific purpose, the department, in collaboration with the department of social and health services, the state fire marshal's office, the superintendent of public instruction, and the Washington state council of firefighters, must review existing local training programs and training programs being used in other states and design a statewide training program that will familiarize fire department and emergency medical service personnel with the techniques, procedures, and protocols for best handling situations in which persons with disabilities are present at the scene of an emergency in order to maximize the safety of persons with disabilities, minimize the likelihood of injury to persons with disabilities, and promote the safety of all persons present. The program must include a checklist of disabilities, symptoms of such disabilities, and things to do and not to do relevant to a particular disability so fire department and emergency medical services personnel can easily and quickly determine the specific scenario into which they are entering. The department must make the training program available on the department's website for use by all fire departments and emergency medical service agencies in the state. The department must include on its website a list of public and private nonprofit disability-related agencies and organizations and the contact information of each agency and organization. Fire departments and emergency medical service agencies must ensure their employees are adequately trained in and familiarized with techniques, procedures, and protocols for best handling situations in which persons with particular disabilities are present at the scene of an emergency.

(2) Subject to the availability of amounts appropriated for this specific purpose, the criminal justice training commission, in consultation with the Washington state patrol and other stakeholders, must examine existing training programs and curricula related to law enforcement officers responding to an emergency where a person with a disability may be present, to ensure that those programs and curricula are consistent with best practices.

(3) For purposes of this section:

(a) Both "accident" and "emergency" mean an unforeseen combination of circumstances or a resulting situation that results in a need for assistance or relief and calls for immediate action; and

(b) "Persons with disabilities" means individuals who have been diagnosed medically to have a physical, mental, emotional, intellectual, behavioral, developmental, or sensory disability. [2017 c 295 § 2.]

Short title—2017 c 295: "This act may be known and cited as the Travis alert act." [2017 c 295 § 1.]

43.70.495 Telemedicine training for health care professionals. (1) The legislature finds that a large segment of Washington residents do not have access to critical health care services. Telemedicine is a way to increase access to health care services to those who would otherwise not have reasonable access. The legislature therefore intends to ensure that health care professionals who provide services through telemedicine, as defined in RCW 70.41.020, in cities and rural areas alike, have current information available, making it possible for them to provide telemedicine services to the entire state of Washington.

(2) Except as permitted under subsection (3) of this section, beginning January 1, 2021, a health care professional who provides clinical services through telemedicine, other than a physician licensed under chapter 18.71 RCW or an osteopathic physician licensed under chapter 18.57 RCW, shall complete a telemedicine training. By January 1, 2020, the telemedicine collaborative shall make a telemedicine training available on its website for use by health care professionals who use telemedicine technology. If a health care professional completes the training, the health care professional shall sign and retain an attestation. The training:

(a) Must include information on current state and federal law, liability, informed consent, and other criteria established by the collaborative for the advancement of telemedicine, in collaboration with the department and the Washington state medical quality assurance commission [medical commission];

(b) Must include a question and answer methodology to demonstrate accrual of knowledge; and

(c) May be made available in electronic format and completed over the internet.

(3) A health care professional is deemed to have met the requirements of subsection (2) of this section if the health care professional:

(a) Completes an alternative telemedicine training; and

(b) Signs and retains an attestation that he or she completed the alternative telemedicine training.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Alternative telemedicine training" means training that includes components that are substantively similar to the telemedicine training developed by the telemedicine collaborative under subsection (2) of this section. "Alternative telemedicine training" may include, but is not limited to:

(i) Training offered by hospitals and other health care facilities to employees of the facility;

(ii) Continuing education courses; and

(iii) Trainings developed by a health care professional board or commission.

(b) "Health care professional" means a person licensed, registered, or certified to provide health services. [2020 c 147 § 1; 2019 c 48 § 1.]

43.70.500 Health care services practice indicators and risk management protocols. The department of health shall consult with health care providers and facilities, purchasers, health professional regulatory authorities under

RCW 18.130.040, appropriate research and clinical experts, and consumers of health care services to identify specific practice areas where practice indicators and risk management protocols have been developed, including those that have been demonstrated to be effective among persons of color. Practice indicators shall be based upon expert consensus and best available scientific evidence. The department shall:

(1) Develop a definition of expert consensus and best available scientific evidence so that practice indicators can serve as a standard for excellence in the provision of health care services.

(2) Establish a process to identify and evaluate practice indicators and risk management protocols as they are developed by the appropriate professional, scientific, and clinical communities.

(3) Recommend the use of practice indicators and risk management protocols in quality assurance, utilization review, or provider payment to the health services commission. [1993 c 492 § 410.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.510 Health care services coordinated quality improvement program—Rules. (1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, health care service contractors, health maintenance organizations, health carriers, or any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof, unless an alternative quality improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.56.360(1)(c) and subsection (5) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the exemption under RCW 42.56.360(1)(c) and the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of five or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services ren-

dered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. For purposes of this section, a health care provider group may be a consortium of providers consisting of five or more providers in total. All such programs shall comply with the requirements of RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section and the exemption under RCW 42.56.360(1)(c) and subsection (5) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (6) of this section is not subject to an action for civil damages or other relief as a result of the activity or its consequences. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts that form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action challenging the termination of a contract by a state agency with any entity maintaining a coordinated quality improvement program under this section if the termination was on the basis of quality of care concerns, introduction into evidence of information created, collected, or maintained by the quality improvement committees of the subject entity, which may be under terms of a protective order as specified by the court; (e) in any civil action, disclosure of the fact that staff privileges were

terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (f) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) Information and documents created specifically for, and collected and maintained by, a quality improvement committee are exempt from disclosure under chapter 42.56 RCW.

(6) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or with RCW 70.41.200, a coordinated quality improvement committee maintained by an ambulatory surgical facility under RCW 70.230.070, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (4) of this section and RCW 4.24.250.

(7) The department of health shall adopt rules as are necessary to implement this section. [2007 c 273 § 21. Prior: 2006 c 8 § 113; 2005 c 291 § 2; 2005 c 274 § 302; 2005 c 33 § 6; 2004 c 145 § 2; 1995 c 267 § 7; 1993 c 492 § 417.]

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Findings—2005 c 33: See note following RCW 18.20.390.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.512 Public health system—Foundational public health services—Intent. (1) Protecting the public's health across the state is a fundamental responsibility of the state and is accomplished through the governmental public health system. This system is comprised of the state department of health, state board of health, local health jurisdictions, sovereign tribal nations, and Indian health programs.

(2)(a) The legislature intends to define a limited statewide set of core public health services, called foundational public health services, which the governmental public health system is responsible for providing in a consistent and uniform way in every community in Washington. These services

are comprised of foundational programs and cross-cutting capabilities.

(b) These governmental public health services should be delivered in ways that maximize the efficiency and effectiveness of the overall system, make best use of the public health workforce and evolving technology, and address health equity.

(c) Funding for the governmental public health system must be restructured to support foundational public health services. In restructuring, there must be efforts to both reinforce current governmental public health system capacity and implement service delivery models allowing for system stabilization and transformation. [2019 c 14 § 1; 2007 c 259 § 60.]

Additional notes found at www.leg.wa.gov

43.70.515 Foundational public health services—Funding. (1) With any state funding of foundational public health services, the state expects that measurable benefits will be realized to the health of communities in Washington as a result of the improved capacity of the governmental public health system. Close coordination and sharing of services are integral to increasing system capacity.

(2)(a) Funding for foundational public health services shall be appropriated to the office of financial management. The office of financial management may only allocate funding to the department if the department, after consultation with federally recognized Indian tribes pursuant to chapter 43.376 RCW, jointly certifies with a state association representing local health jurisdictions and the state board of health, to the office of financial management that they are in agreement on the distribution and uses of state foundational public health services funding across the public health system.

(b) If joint certification is provided, the department shall distribute foundational public health services funding according to the agreed-upon distribution and uses. If joint certification is not provided, appropriations for this purpose shall lapse.

(3) By October 1, 2020, the department, in partnership with sovereign tribal nations, local health jurisdictions, and the state board of health, shall report on:

(a) Service delivery models, and a plan for further implementation of successful models;

(b) Changes in capacity of the governmental public health system; and

(c) Progress made to improve health outcomes.

(4) For purposes of this section:

(a) "Foundational public health services" means a limited statewide set of defined public health services within the following areas:

(i) Control of communicable diseases and other notifiable conditions;

(ii) Chronic disease and injury prevention;

(iii) Environmental public health;

(iv) Maternal, child, and family health;

(v) Access to and linkage with medical, oral, and behavioral health services;

(vi) Vital records; and

(vii) Cross-cutting capabilities, including:

(A) Assessing the health of populations;

(B) Public health emergency planning;

(C) Communications;

- (D) Policy development and support;
- (E) Community partnership development; and
- (F) Business competencies.

(b) "Governmental public health system" means the state department of health, state board of health, local health jurisdictions, sovereign tribal nations, and Indian health programs located within Washington.

(c) "Indian health programs" means tribally operated health programs, urban Indian health programs, tribal epidemiology centers, the American Indian health commission for Washington state, and the Northwest Portland area Indian health board.

(d) "Local health jurisdictions" means a public health agency organized under chapter 70.05, 70.08, or 70.46 RCW.

(e) "Service delivery models" means a systematic sharing of resources and function among state and local governmental public health entities, sovereign tribal nations, and Indian health programs to increase capacity and improve efficiency and effectiveness. [2019 c 14 § 2.]

43.70.525 Immunization assessment and enhancement proposals by local jurisdictions. (1) The department, in conjunction with local health jurisdictions, shall require each local health jurisdiction to submit an immunization assessment and enhancement proposal, consistent with the standards established in the public health [services] improvement plan, to provide immunization protection to the children of the state to further reduce vaccine-preventable diseases.

(2) These plans shall include, but not be limited to:

(a) A description of the population groups in the jurisdiction that are in the greatest need of immunizations;

(b) A description of strategies to use outreach, volunteer, and other local educational resources to enhance immunization rates; and

(c) A description of the capacity required to accomplish the enhancement proposal.

(3) This section shall be implemented consistent with available funding.

(4) The secretary shall report through the public health [services] improvement plan to the health care and fiscal committees of the legislature on the status of the program and progress made toward increasing immunization rates in population groups of greatest need. [1994 c 299 § 29.]

Intent—Finding—Severability—Conflict with federal requirements—1994 c 299: See notes following RCW 74.12.400.

Immunization: RCW 28A.210.060.

43.70.526 Childhood immunizations—Resources for expecting parents. The department shall develop and make available resources for expecting parents regarding recommended childhood immunizations. The resources are intended to be provided to expecting parents by their health care providers to encourage discussion on childhood immunizations and postnatal care. [2016 c 141 § 1.]

43.70.533 Chronic conditions—Training and technical assistance for primary care providers. (1) The department shall conduct a program of training and technical assistance regarding care of people with chronic conditions for providers of primary care. The program shall emphasize evidence-based high quality preventive and chronic disease care

and shall collaborate with the health care authority to promote the adoption of primary care health homes established under chapter 316, Laws of 2011. The department may designate one or more chronic conditions to be the subject of the program.

(2) The training and technical assistance program shall include the following elements:

(a) Clinical information systems and sharing and organization of patient data;

(b) Decision support to promote evidence-based care;

(c) Clinical delivery system design;

(d) Support for patients managing their own conditions; and

(e) Identification and use of community resources that are available in the community for patients and their families.

(3) In selecting primary care providers to participate in the program, the department shall consider the number and type of patients with chronic conditions the provider serves, and the provider's participation in the medicaid program, the basic health plan, and health plans offered through the public employees' benefits board.

(4) For the purposes of this section, "health home" and "primary care provider" have the same meaning as in RCW 74.09.010. [2011 c 316 § 3; 2007 c 259 § 5.]

Additional notes found at www.leg.wa.gov

43.70.540 Data collection—Legislative finding and intent. The legislature recognizes that the state patrol, the administrative office of the courts, the sheriffs' and police chiefs' association, the department of social and health services, the *department of community, trade, and economic development, the sentencing guidelines commission, the department of corrections, and the superintendent of public instruction each have comprehensive data and analysis capabilities that have contributed greatly to our current understanding of crime and violence, and their causes.

The legislature finds, however, that a single health-oriented agency must be designated to provide consistent guidelines to all these groups regarding the way in which their data systems collect this important data. It is not the intent of the legislature by RCW 43.70.545 to transfer data collection requirements from existing agencies or to require the addition of major new data systems. It is rather the intent to make only the minimum required changes in existing data systems to increase compatibility and comparability, reduce duplication, and to increase the usefulness of data collected by these agencies in developing more accurate descriptions of violence. [2005 c 282 § 45; 1995 c 399 § 76; 1994 sp.s. c 7 § 201.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Legislative finding and intent—1994 sp.s. c 7: "The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The legislature finds that violence is abhorrent to the aims of a free society and that it cannot be tolerated. State efforts at reducing violence must include changes in criminal penalties, reducing the unlawful use of and access to firearms, increasing educational efforts to encourage nonviolent means for resolving conflicts, and allowing communities to design their prevention efforts.

The legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use, and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of chapter 7, Laws of 1994 sp. sess. to: (1) Prevent acts of violence by encouraging change in social norms and individual behaviors that have been shown to increase the risk of violence; (2) reduce the rate of at-risk children and youth, as defined in *RCW 70.190.010; (3) increase the severity and certainty of punishment for youth and adults who commit violent acts; (4) reduce the severity of harm to individuals when violence occurs; (5) empower communities to focus their concerns and allow them to control the funds dedicated to empirically supported preventive efforts in their region; and (6) reduce the fiscal and social impact of violence on our society." [1994 sp.s. c 7 § 101.]

***Reviser's note:** The governor vetoed 1994 sp.s. c 7 § 302, which amended RCW 70.190.010 to define "at-risk children and youth." RCW 70.190.010 was subsequently amended by 1996 c 132 § 2, which now includes a definition for "at-risk children." RCW 70.190.010 was subsequently repealed by 2011 1st sp.s. c 32 § 13, effective June 30, 2012.

***Reviser's note:** Sections 901 through 909, chapter 7, Laws of 1994 sp. sess. were approved and ratified by the voters on November 8, 1994, in Referendum Bill No. 43. Therefore, the amendments to sections 510 through 512, 519, 521, 525, and 527, chapter 7, Laws of 1994 sp. sess. do not expire on July 1, 1995.

Additional notes found at www.leg.wa.gov

43.70.545 Data collection and reporting rules. (1)

The department of health shall develop, based on recommendations in the public health services improvement plan and in consultation with affected groups or agencies, comprehensive rules for the collection and reporting of data relating to acts of violence, at-risk behaviors, and risk and protective factors. The data collection and reporting rules shall be used by any public or private entity that is required to report data relating to these behaviors and conditions. The department may require any agency or program that is state-funded or that accepts state funds and any licensed or regulated person or professional to report these behaviors and conditions. To the extent possible the department shall require the reports to be filed through existing data systems. The department may also require reporting of attempted acts of violence and of nonphysical injuries. For the purposes of this section "acts of violence" means self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. "At-risk behaviors," "protective factors," and "risk factors" have the same meanings as provided in *RCW 70.190.010. A copy of the data used by a school district to prepare and submit a report to the department shall be retained by the district and, in the copy retained by the district, identify the reported acts or behaviors by school site.

(2) The department is designated as the statewide agency for the coordination of all information relating to violence and other intentional injuries, at-risk behaviors, and risk and protective factors.

(3) The department shall provide necessary data to the local health departments for use in planning by or evaluation of any community network authorized under RCW 70.190.060.

(4) The department shall by rule establish requirements for local health departments to perform assessment related to at-risk behaviors and risk and protective factors and to assist community networks in policy development and in planning and other duties under chapter 7, Laws of 1994 sp. sess.

(5) The department may, consistent with its general authority and directives under RCW 43.70.540 through 43.70.560, contract with a college or university that has experience in data collection relating to the health and overall welfare of children to provide assistance to:

(a) State and local health departments in developing new sources of data to track acts of violence, at-risk behaviors, and risk and protective factors; and

(b) Local health departments to compile and effectively communicate data in their communities. [1998 c 245 § 76; 1994 sp.s. c 7 § 202.]

***Reviser's note:** RCW 70.190.010 was repealed by 2011 1st sp.s. c 32 § 13, effective June 30, 2012.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.550 Public health services improvement plan—Contents. The public health services improvement plan developed under *RCW 43.70.520 shall include:

(1) Minimum standards for state and local public health assessment, performance measurement, policy development, and assurance regarding social development to reduce at-risk behaviors and risk and protective factors. The department in the development of data collection and reporting requirements for the superintendent of public instruction, schools, and school districts shall consult with the joint select committee on education restructuring and local school districts.

(2)(a) Measurable risk factors that are empirically linked to violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence; and

(b) An evaluation of other factors to determine whether they are empirically related risk factors, such as: Out-of-home placements, poverty, single-parent households, inadequate nutrition, hunger, unemployment, lack of job skills, gang affiliation, lack of recreational or cultural opportunities, school absenteeism, court-ordered parenting plans, physical, emotional, or behavioral problems requiring special needs assistance in K-12 schools, learning disabilities, and any other possible factors.

(3) Data collection and analysis standards on at-risk behaviors and risk and protective factors for use by the local public health departments and the **state council and the local community networks to ensure consistent and interchangeable data.

(4) Recommendations regarding any state or federal statutory barriers affecting data collection or reporting.

The department shall provide an annual report to the Washington state institute for public policy on the implementation of this section. [1994 sp.s. c 7 § 203.]

Reviser's note: *(1) RCW 43.70.520 was repealed by 2019 c 14 § 3.

** (2) RCW 70.170.030, which created the health care access and cost control council, was repealed by 1995 c 269 § 2204.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.555 Assessment standards. The department shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk fac-

tors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by RCW 43.70.550. [2011 1st sp.s. c 32 § 8; 1998 c 245 § 77; 1994 sp.s. c 7 § 204.]

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.70.560 Media violence—Reporting reduction efforts. The legislature encourages the use of a statewide voluntary, socially responsible policy to reduce the emphasis, amount, and type of violence in all public media. The department shall develop a suggested reporting format for use by the print, television, and radio media in reporting their voluntary violence reduction efforts. Each area of the public media may carry out the policy in whatever manner that area deems appropriate. [1994 sp.s. c 7 § 205.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.70.570 Intent—1995 c 43. The legislature declares its intent to implement the recommendations of the public health improvement plan by initiating a program to provide the public health system with the necessary capacity to improve the health outcomes of the population of Washington state and establishing the methodology by which improvement in the health outcomes and delivery of public health activities will be assessed. [1995 c 43 § 1.]

Additional notes found at www.leg.wa.gov

43.70.575 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.70.570 through *43.70.580.

(1) "Capacity" means actions that public health jurisdictions must do as part of ongoing daily operations to adequately protect and promote health and prevent disease, injury, and premature death. The public health improvement plan identifies capacity necessary for assessment, policy development, administration, prevention, including promotion and protection, and access and quality.

(2) "Department" means the department of health.

(3) "Local health jurisdiction" means the local health agency, either county or multicounty, operated by local government, with oversight and direction from a local board of health, that provides public health services throughout a defined geographic area.

(4) "Health outcomes" means long-term objectives that define optimal, measurable, future levels of health status, maximum acceptable levels of disease, injury, or dysfunction, or prevalence of risk factors in areas such as improving the rate of immunizations for infants and children to ninety percent and controlling and reducing the spread of tuberculosis and that are stated in the public health improvement plan.

(5) "Public health improvement plan," also known as the public health services improvement plan, means the public health services improvement plan established under *RCW 43.70.520, developed by the department, in consultation with local health departments and districts, the state board of

health, the health services commission, area Indian health services, and other state agencies, health services providers, and residents concerned about public health, to provide a detailed accounting of deficits in the core functions of assessment, policy development, and assurance of the current public health system, how additional public health funding would be used, and to describe the benefits expected from expanded expenditures.

(6) "Public health" means activities that society does collectively to assure the conditions in which people can be healthy. This includes organized community efforts to prevent, identify, preempt, and counter threats to the public's health.

(7) "Public health system" means the department, the state board of health, and local health jurisdictions. [1995 c 43 § 2.]

***Reviser's note:** RCW 43.70.580 and 43.70.520 were repealed by 2019 c 14 § 3.

Additional notes found at www.leg.wa.gov

43.70.590 American Indian health care delivery plan. Consistent with funds appropriated specifically for this purpose, the department shall establish in conjunction with the area Indian health services system and providers an advisory group comprised of Indian and non-Indian health care facilities and providers to formulate an American Indian health care delivery plan. The plan shall include:

(1) Recommendations to providers and facilities methods for coordinating and joint venturing with the Indian health services for service delivery;

(2) Methods to improve American Indian-specific health programming; and

(3) Creation of co-funding recommendations and opportunities for the unmet health services programming needs of American Indians. [1995 c 43 § 4; 1993 c 492 § 468. Formerly RCW 41.05.240.]

Reviser's note: RCW 41.05.240 was amended and recodified as RCW 43.70.590 by 1995 c 43 without cognizance of the repeal by 1995 1st sp.s. c 6 § 9. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

43.70.595 Health equity zones. (1) Subject to the availability of amounts appropriated for this specific purpose, the department, in coordination with the governor's inter-agency council on health disparities, local health jurisdictions, and accountable communities of health, must share and review population health data, which may be related to chronic and infectious diseases, maternal birth complications, preterm births and other newborn health complications, and any other relevant health data, including hospital community health needs assessments, to identify, or allow communities to self-identify, potential health equity zones in the state and develop projects to meet the unique needs of each zone. The department must provide technical support to communities in the use of data to facilitate self-identification of health equity zones.

(2) Communities' uses of data must align with projects and outcomes to be measured in self-identified zones.

(3) The department must use the first 12 months following July 25, 2021, to develop a plan and process to allow communities to implement health equity zone programs statewide. The department has authority to determine the number of health equity zones and projects based on available resources.

(4) Communities that self-identify zones or the department must notify relevant community organizations in the zones of the health equity zone designation and allow those organizations to identify projects to address the zone's most urgent needs related to health disparities. Community organizations may include, but are not limited to:

- (a) Community health clinics;
- (b) Local health providers;
- (c) Federally qualified health centers;
- (d) Health systems;
- (e) Local government;
- (f) Public school districts;
- (g) Recognized American Indian organizations and Indian health organizations;
- (h) Local health jurisdictions; and
- (i) Any other nonprofit organization working to address health disparities in the zone.

(5) Local organizations working within zones may form coalitions to identify the needs of the zone, design projects to address those needs, and develop an action plan to implement the projects. Local organizations may partner with state or national organizations outside the specific zone designation. Projects may include, but are not limited to:

- (a) Addressing health care provider access and health service delivery;
 - (b) Improving information sharing and community trust in providers and services;
 - (c) Conducting outreach and education efforts; and
 - (d) Recommending systems and policy changes that will improve population health.
- (6) The department must provide:
- (a) Support to the coalitions in identifying and applying for resources to support projects within the zones;
 - (b) Technical assistance related to project management and developing health outcome and other measures to evaluate project success; and
 - (c) Subject to availability, funding to implement projects.
- (7) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2023, and every two years thereafter, the department must submit a report to the legislature detailing the projects implemented in each zone and the outcome measures, including year-over-year health data, to demonstrate project success.

(8) For the purposes of this section "health equity zone" or "zone" means a contiguous geographic area that demonstrates measurable and documented health disparities and poor health outcomes, which may include but are not limited to high rates of maternal complications, newborn health complications, and chronic and infectious disease, is populated by communities of color, Indian communities, communities experiencing poverty, or immigrant communities, and is small enough for targeted interventions to have a significant impact on health outcomes and health disparities. Documented health disparities must be documented or identified by the department or the centers for disease control and prevention. [2021 c 262 § 2.]

Findings—Intent—2021 c 262: "(1) The legislature finds that people of color, Indian, people experiencing poverty, and immigrant populations experience significant health disparities compared to the general population, including more limited access to health care and poorer health outcomes.

The legislature finds that these circumstances result in higher rates of morbidity and mortality for persons of color and immigrant populations than observed in the general population.

(2) Therefore, the legislature intends to create health equity zones to address significant health disparities identified by health outcome data. The state intends to work with community leaders within the health equity zones to share information and coordinate efforts with the goal of addressing the most urgent needs. Health equity zone partners shall develop, expand, and maintain positive relationships with communities of color, Indian communities, communities experiencing poverty, and immigrant communities within the zone to develop effective and sustainable programs to address health inequity." [2021 c 262 § 1.]

43.70.600 Survey regarding exposure to radio frequencies—Results. When funds are appropriated for this purpose, the department shall conduct a survey of scientific literature regarding the possible health effects of human exposure to the radio frequency part of the electromagnetic spectrum (300Hz to 300GHz). The department may submit the survey results to the legislature, prepare a summary of that survey, and make the summary available to the public. The department may update the survey and summary periodically. [1998 c 245 § 78; 1996 c 323 § 6.]

Findings—1996 c 323: "The legislature finds that concerns have been raised over possible health effects from exposure to some wireless telecommunications facilities, and that exposures from these facilities should be kept as low as reasonably achievable while still allowing the operation of these networks. The legislature further finds that the department of health should serve as the state agency that follows the issues and compiles information pertaining to potential health effects from wireless telecommunications facilities." [1996 c 323 § 1.]

43.70.605 Personal wireless services—Random testing on power density analysis—Rules. Unless this section is preempted by applicable federal statutes, the department may require that in residential zones or areas, all providers of personal wireless services, as defined in *section 1 of this act, provide random test results on power density analysis for the provider's licensed frequencies showing radio frequency levels before and after development of the personal wireless service antenna facilities, following national standards or protocols of the federal communications commission or other federal agencies. This section shall not apply to microcells as defined in RCW 80.36.375. The department may adopt rules to implement this section. [1996 c 323 § 7.]

***Reviser's note:** The reference to section 1 of this act is erroneous. Section 2 of the act, codified as RCW 43.21C.0384, was apparently intended.

Findings—1996 c 323: See note following RCW 43.70.600.

43.70.610 Domestic violence education program—Established—Findings. The legislature finds that domestic violence is the leading cause of injury among women and is linked to numerous health problems, including depression, abuse of alcohol and other drugs, and suicide. Despite the frequency of medical attention, few people are diagnosed as victims of spousal abuse. The department, in consultation with the disciplinary authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing domestic violence education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the identification, appropriate treatment, and appropriate referral of victims of domestic violence. The disciplinary authorities having the authority to offer continuing education may provide training in the

dynamics of domestic violence. No funds from the health professions account may be utilized to fund activities under this section unless the disciplinary authority authorizes expenditures from its proportions of the account. A disciplinary authority may defray costs by authorizing a fee to be charged for participants or materials relating to any sponsored program. [1996 c 191 § 89.]

43.70.613 Health care professionals—Health equity continuing education. (1) By January 1, 2024, the rule-making authority for each health profession licensed under Title 18 RCW subject to continuing education requirements must adopt rules requiring a licensee to complete health equity continuing education training at least once every four years.

(2) Health equity continuing education courses may be taken in addition to or, if a rule-making authority determines the course fulfills existing continuing education requirements, in place of other continuing education requirements imposed by the rule-making authority.

(3)(a) The secretary and the rule-making authorities must work collaboratively to provide information to licensees about available courses. The secretary and rule-making authorities shall consult with patients or communities with lived experiences of health inequities or racism in the health care system and relevant professional organizations when developing the information and must make this information available by July 1, 2023. The information should include a course option that is free of charge to licensees. It is not required that courses be included in the information in order to fulfill the health equity continuing education requirement.

(b) By January 1, 2023, the department, in consultation with the boards and commissions, shall adopt model rules establishing the minimum standards for continuing education programs meeting the requirements of this section. The department shall consult with patients or communities with lived experience of health inequities or racism in the health care system, relevant professional organizations, and the rule-making authorities in the development of these rules.

(c) The minimum standards must include instruction on skills to address the structural factors, such as bias, racism, and poverty, that manifest as health inequities. These skills include individual-level and system-level intervention, and self-reflection to assess how the licensee's social position can influence their relationship with patients and their communities. These skills enable a health care professional to care effectively for patients from diverse cultures, groups, and communities, varying in race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The courses must assess the licensee's ability to apply health equity concepts into practice. Course topics may include, but are not limited to:

(i) Strategies for recognizing patterns of health care disparities on an individual, institutional, and structural level and eliminating factors that influence them;

(ii) Intercultural communication skills training, including how to work effectively with an interpreter and how communication styles differ across cultures;

(iii) Implicit bias training to identify strategies to reduce bias during assessment and diagnosis;

(iv) Methods for addressing the emotional well-being of children and youth of diverse backgrounds;

(v) Ensuring equity and antiracism in care delivery pertaining to medical developments and emerging therapies;

(vi) Structural competency training addressing five core competencies:

(A) Recognizing the structures that shape clinical interactions;

(B) Developing an extraclinical language of structure;

(C) Rearticulating "cultural" formulations in structural terms;

(D) Observing and imagining structural interventions; and

(E) Developing structural humility; and

(vii) Cultural safety training.

(4) The rule-making authority may adopt rules to implement and administer this section, including rules to establish a process to determine if a continuing education course meets the health equity continuing education requirement established in this section.

(5) For purposes of this section the following definitions apply:

(a) "Rule-making authority" means the regulatory entities identified in RCW 18.130.040 and authorized to establish continuing education requirements for the health care professions governed by those regulatory entities.

(b) "Structural competency" means a shift in medical education away from pedagogic approaches to stigma and inequalities that emphasize cross-cultural understandings of individual patients, toward attention to forces that influence health outcomes at levels above individual interactions. Structural competency reviews existing structural approaches to stigma and health inequities developed outside of medicine and proposes changes to United States medical education that will infuse clinical training with a structural focus.

(c) "Cultural safety" means an examination by health care professionals of themselves and the potential impact of their own culture on clinical interactions and health care service delivery. This requires individual health care professionals and health care organizations to acknowledge and address their own biases, attitudes, assumptions, stereotypes, prejudices, structures, and characteristics that may affect the quality of care provided. In doing so, cultural safety encompasses a critical consciousness where health care professionals and health care organizations engage in ongoing self-reflection and self-awareness and hold themselves accountable for providing culturally safe care, as defined by the patient and their communities, and as measured through progress towards achieving health equity. Cultural safety requires health care professionals and their associated health care organizations to influence health care to reduce bias and achieve equity within the workforce and working environment. [2021 c 276 § 2.]

Findings—2021 c 276: "The legislature finds that:

(1) Healthy Washingtonians contribute to the economic and social welfare of their families and communities, and access to health services and improved health outcomes allows all Washington families to enjoy productive and satisfying lives;

(2) The COVID-19 pandemic has further exposed that health outcomes are experienced differently by different people based on discrimination and bias by the health care system. Research shows that health care resources are distributed unevenly by intersectional categories including, but not limited to, race, gender, ability status, religion, sexual orientation, socioeconomic status, and geography; and

(3) These inequities have permeated health care delivery, deepening adverse outcomes for marginalized communities. This bill aims to equip health care workers with the skills to recognize and reduce these inequities in their daily work. In addition to their individual impact, health care workers need the skills to address systemic racism and bias." [2021 c 276 § 1.]

43.70.615 Multicultural health awareness and education program—Integration into health professions basic education preparation curriculum. (1) For the purposes of this section, "multicultural health" means the provision of health care services with the knowledge and awareness of the causes and effects of the determinants of health that lead to disparities in health status between different genders and racial and ethnic populations and the practice skills necessary to respond appropriately.

(2) The department, in consultation with the disciplining authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing multicultural health awareness and education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the knowledge, attitudes, and practice skills necessary to care for diverse populations to achieve a greater understanding of the relationship between culture and health. Any such education shall be developed in collaboration with education programs that train students in that health profession. No funds from the health professions account may be utilized to fund activities under this section unless the disciplining authority authorizes expenditures from its proportions of the account.

(3) By July 1, 2008, each education program with a curriculum to train health professionals for employment in a profession credentialed by a disciplining authority under chapter 18.130 RCW shall integrate into the curriculum instruction in multicultural health as part of its basic education preparation curriculum. The department may not deny the application of any applicant for a credential to practice a health profession on the basis that the education or training program that the applicant successfully completed did not include integrated multicultural health curriculum as part of its basic instruction. [2021 c 276 § 3; 2006 c 237 § 2.]

Findings—2021 c 276: See note following RCW 43.70.613.

Findings—2006 c 237: "The legislature finds that women and people of color experience significant disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health. The legislature finds that it shall be a priority for the state to develop the knowledge, attitudes, and practice skills of health professionals and those working with diverse populations to achieve a greater understanding of the relationship between culture and health and gender and health." [2006 c 237 § 1.]

43.70.617 Prenatal nutrition best practices—Educational resources for pregnant women. The department shall develop and make available educational resources for pregnant women regarding prenatal nutrition best practices to promote infant health. The educational resources may include, but are not limited to, courses delivered in-person or electronically and pamphlets printed on paper or made available on the department's website. The educational resources are intended to provide pregnant women knowledge of healthy foods and essential daily nutrients needed to promote infant growth and development. [2014 c 38 § 1.]

43.70.619 Pregnancy complications—Informational resources. By December 31, 2021, the department shall design, prepare, and make available online, written materials to clearly inform health care providers and staff of the provisions of, and authority to act under, chapter 70.400 RCW. [2021 c 235 § 5.]

Conflict with federal requirements—2021 c 235: See RCW 70.400.900.

43.70.620 List of contacts—Health care professions. The secretary shall create and maintain a list of contacts with each of the health care professions regulated under the following chapters for the purpose of policy advice and information dissemination: RCW 18.06.080, 18.89.050, and 18.138.070 and chapters *18.135, 18.55, and 18.88A RCW. [1999 c 151 § 402.]

***Reviser's note:** Chapter 18.135 RCW was repealed by 2012 c 153 § 20.

Additional notes found at www.leg.wa.gov

43.70.630 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit processing.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

- (a) The estimated number of weeks for initial review of the permit application;
- (b) The estimated number of revision cycles;
- (c) The estimated number of weeks for review of subsequent revision submittals;
- (d) The estimated number of billable hours of employee time;
- (e) The rate per hour; and
- (f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant or proponent shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees, to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for

accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 10; 2007 c 94 § 12; 2003 c 70 § 3; 2000 c 251 § 4.]

Intent—Captions not law—Effective date—2000 c 251: See notes following RCW 43.21A.690.

43.70.640 Workplace breastfeeding policies—Infant-friendly designation. (1) An employer may use the designation "infant-friendly" on its promotional materials if the employer has an approved workplace breastfeeding policy addressing at least the following:

(a) Flexible work scheduling, including scheduling breaks and permitting work patterns that provide time for expression of breast milk;

(b) A convenient, sanitary, safe, and private location, other than a restroom, allowing privacy for breastfeeding or expressing breast milk;

(c) A convenient clean and safe water source with facilities for washing hands and rinsing breast-pumping equipment located in the private location specified in (b) of this subsection; and

(d) A convenient hygienic refrigerator in the workplace for the mother's breast milk.

(2) Employers seeking approval of a workplace breastfeeding policy must submit the policy to the department of health. The department of health shall review and approve those policies that meet the requirements of this section. The department may directly develop and implement the criteria for "infant-friendly" employers, or contract with a vendor for this purpose.

(3) For the purposes of this section, "employer" includes those employers defined in RCW 49.12.005 and also includes the state, state institutions, state agencies, political subdivisions of the state, and municipal corporations or quasi-municipal corporations. [2001 c 88 § 3.]

Acknowledgment—Declaration—Findings—2001 c 88: "(1) The legislature acknowledges the surgeon general's summons to all sectors of society and government to help redress the low breastfeeding rates and duration in the United States, including the social and workplace factors that can make it difficult for women to breastfeed. The legislature also acknowledges the surgeon general's report on the health and economic importance of breastfeeding which concludes that:

(a) Breastfeeding is one of the most important contributors to infant health;

(b) Breastfeeding provides a range of benefits for the infant's growth, immunity, and development; and

(c) Breastfeeding improves maternal health and contributes economic benefits to the family, health care system, and workplace.

(2) The legislature declares that the achievement of optimal infant and child health, growth, and development requires protection and support for the practice of breastfeeding. The legislature finds that:

(a) The American academy of pediatrics recommends exclusive breastfeeding for the first six months of a child's life and breastfeeding with the

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addition of solid foods to continue for at least twelve months, and that arrangements be made to provide expressed breast milk if the mother and child must separate during the first year. Children should be breastfed or fed expressed breast milk when they show signs of need, rather than according to a set schedule or the location;

(b) Breast milk contains all the nutrients a child needs for optimal health, growth, and development, many of which can only be found in breast milk;

(c) Research in developed countries provides strong evidence that breastfeeding decreases the incidence and/or severity of diarrhea, lower respiratory tract infection, otitis media, bacteremia, bacterial meningitis, urinary tract infection, and necrotizing enterocolitis. In addition, a number of studies show a possible protective effect of breastfeeding against SIDS, Type 1 diabetes mellitus, Crohn's disease, lymphoma, ulcerative colitis, and allergic diseases;

(d) Studies also indicate health benefits in mothers who breastfeed. Breastfeeding is one of the few ways that mothers may be able to lower their risk of developing breast and ovarian cancer, with benefits proportional to the duration that they are able to breastfeed. In addition, the maternal hormonal changes stimulated by breastfeeding also help the uterus recover faster and minimize the amount of blood mothers lose after birth. Breastfeeding inhibits ovulation and menstrual bleeding, thereby decreasing the risk of anemia and a precipitous subsequent pregnancy. Breastfeeding women also have an earlier return to prepregnancy weight;

(e) Approximately two-thirds of women who are employed when they become pregnant return to the workforce by the time their children are six months old;

(f) Employers benefit when their employees breastfeed. Breastfed infants are sick less often; therefore, maternal absenteeism from work is lower in companies with established lactation programs. In addition, employee medical costs are lower and employee productivity is higher;

(g) According to a survey of mothers in Washington, most want to breastfeed but discontinue sooner than they hope, citing lack of societal and workplace support as key factors limiting their ability to breastfeed;

(h) Many mothers fear that they are not making enough breast milk and therefore decrease or discontinue breastfeeding. Frequency of breastfeeding or expressing breast milk is the main regulator of milk supply, such that forcing mothers to go prolonged periods without breastfeeding or expressing breast milk can undermine their ability to maintain breastfeeding; and

(i) Maternal stress can physiologically inhibit a mother's ability to produce and let down milk. Mothers report modifiable sources of stress related to breastfeeding, including lack of protection from harassment and difficulty finding time and an appropriate location to express milk while away from their babies.

(3) The legislature encourages state and local governmental agencies, and private and public sector businesses to consider the benefits of providing convenient, sanitary, safe, and private rooms for mothers to express breast milk." [2001 c 88 § 1.]

43.70.645 Donor human milk—Milk bank safety standards. The department shall adopt standards for ensuring milk bank safety. The standards adopted by the department must, at a minimum, consider the clinical, evidence-based guidelines established by a national accrediting organization. The standards must address donor screening, milk handling and processing, and recordkeeping. The department shall also review and consider requiring additional testing standards, including but not limited to testing for the presence of viruses, bacteria, and prescription and nonprescription drugs in donated milk. [2022 c 236 § 5.]

43.70.650 School sealant endorsement program—Rules—Fee—Report to the legislature. The secretary is authorized to create a school sealant endorsement program for dental hygienists and dental assistants. The secretary of health, in consultation with the dental quality assurance commission and the dental hygiene examining committee, shall adopt rules to implement this section.

(1) A dental hygienist licensed in this state after April 19, 2001, is eligible to apply for endorsement by the department

of health as a school sealant dental hygienist upon completion of the Washington state school sealant endorsement program. While otherwise authorized to act, currently licensed hygienists may still elect to apply for the endorsement.

(2) A dental assistant employed after April 19, 2001, by a dentist licensed in this state, who has worked under dental supervision for at least two hundred hours, is eligible to apply for endorsement by the department of health as a school sealant dental assistant upon completion of the Washington state school sealant endorsement program. While otherwise authorized to act, currently employed dental assistants may still elect to apply for the endorsement.

(3) The department may impose a fee for implementation of this section.

(4) The secretary shall provide a report to the legislature by December 1, 2005, evaluating the outcome of chapter 93, Laws of 2001. [2001 c 93 § 2.]

Findings—Intent—2001 c 93: "The legislature finds that access to preventive and restorative oral health services by low-income children is currently restricted by complex regulatory, financial, cultural, and geographic barriers that have resulted in a large number of children suffering unnecessarily from dental disease. The legislature also finds that very early exposure to oral health care can reverse this disease in many cases, thereby significantly reducing costs of providing dental services to low-income populations.

It is the intent of the legislature to address the problem of poor access to oral health care by providing for school-based sealant programs through the endorsement of dental hygienists." [2001 c 93 § 1.]

Additional notes found at www.leg.wa.gov

43.70.660 Product safety education. (1) The legislature authorizes the secretary to establish and maintain a product safety education campaign to promote greater awareness of products designed to be used by infants and children that:

(a) Are recalled by the United States consumer products safety commission;

(b) Do not meet federal safety regulations and voluntary safety standards;

(c) Are unsafe or illegal to place into the stream of commerce under the infant crib safety act, chapter 70.111 RCW; or

(d) Contain chemicals of high concern for children as identified under RCW 70A.430.040.

(2) The department shall make reasonable efforts to ensure that this infant and children product safety education campaign reaches the target population. The target population for this campaign includes, but is not limited to, parents, foster parents and other caregivers, child care providers, consignment and resale stores selling infant and child products, and charitable and governmental entities serving infants, children, and families.

(3) The secretary may utilize a combination of methods to achieve this outreach and education goal, including but not limited to print and electronic media. The secretary may operate the campaign or may contract with a vendor.

(4) The department shall coordinate this infant and children product safety education campaign with child-serving entities including, but not limited to, hospitals, birthing centers, midwives, pediatricians, obstetricians, family practice physicians, governmental and private entities serving infants, children, and families, and relevant manufacturers.

(5) The department shall coordinate with other agencies and entities to eliminate duplication of effort in disseminating infant and children consumer product safety information.

(6) The department may receive funding for this infant and children product safety education effort from federal, state, and local governmental entities, child-serving foundations, or other private sources. [2021 c 65 § 45; 2008 c 288 § 6; 2001 c 257 § 2.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Findings—Intent—2001 c 257: "(1) The legislature finds that infants and children in Washington are injured, sometimes fatally, by unsafe consumer products designed for use by infants and children.

(2) The legislature finds that parents and other persons responsible for the care of infants and children are often unaware that some of these consumer products have been recalled or are unsafe.

(3) The legislature intends to address this lack of awareness by establishing a statewide infant and children product safety campaign across Washington state." [2001 c 257 § 1.]

43.70.665 Early detection breast and cervical cancer screening program—Medical advisory committee. (1)

The legislature finds that Washington state has the highest incidence of breast cancer in the nation. Despite this, mortality rates from breast cancer have declined due largely to early screening and detection. Invasive cervical cancer is the most preventable type of cancer. The Pap test, used to detect early signs of this disease, has been called "medicine's most successful screening test." Applied consistently, invasive cervical cancer could nearly be eliminated. The legislature further finds that increasing access to breast and cervical cancer screening is critical to reducing incidence and mortality rates, and eliminating the disparities of this disease in women in Washington state. Furthermore, the legislature finds there is a need for a permanent program providing early detection and screening to the women and families of Washington state.

It is the intent of the legislature to establish an early detection breast and cervical cancer screening program as a voluntary screening program directed at reducing mortalities through early detection to be offered to eligible women only as funds are available.

(2) As used in this section:

(a) "Eligible woman" means a woman who is age forty to sixty-four, and whose income is at or below two hundred fifty percent of the federal poverty level, as published annually by the federal department of health and human services. Priority enrollment shall be given to women as defined by the federal national breast and cervical cancer early detection program, under P.L. 101-354.

(b) "Approved providers" means those state-supported health providers, radiology facilities, and cytological laboratories that are recognized by the department as meeting the minimum program policies and procedures adopted by the department to qualify under the federal national breast and cervical cancer early detection program, and are designated as eligible for funding by the department.

(c) "Comprehensive" means a screening program that focuses on breast and cervical cancer screening as a preventive health measure, and includes diagnostic and case management services.

(3) The department of health is authorized to administer a state-supported early detection breast and cervical cancer

screening program to assist eligible women with preventive health services. To the extent of available funding, eligible women may be enrolled in the early detection breast and cervical cancer screening program and additional eligible women may be enrolled to the extent that grants and contributions from community sources provide sufficient funds for expanding the program.

(4) Funds appropriated for the state program shall be used only to operate early detection breast and cervical cancer screening programs that have been approved by the department, or to increase access to existing state-approved programs, and shall not supplant federally supported breast and cervical cancer early detection programs.

(5) Enrollment in the early detection breast and cervical cancer screening program shall not result in expenditures that exceed the amount that has been appropriated for the program in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment in the program. Nothing in this section prevents the department from continuing enrollment in the program if there are adequate private or public funds in addition to those appropriated in the biennial budget to support the cost of such enrollment.

(6) The department shall establish a medical advisory committee composed of interested medical professionals and consumer liaisons with expertise in a variety of areas relevant to breast and cervical health to provide expert medical advice and guidance. The medical advisory committee shall address national, state, and local concerns regarding best practices in the field of early prevention and detection for breast and cervical cancer and assist the early detection breast and cervical cancer screening program in implementing program policy that follows the best practices of high quality health care for clinical, diagnostic, pathologic, radiological, and oncology services. [2006 c 55 § 1.]

43.70.670 Human immunodeficiency virus insurance program. (1) "Human immunodeficiency virus insurance program," as used in this section, means a program that provides health insurance coverage for individuals with human immunodeficiency virus, as defined in RCW 70.24.017(7), who are not eligible for medical assistance programs from the health care authority as defined in *RCW 74.09.010(10) and meet eligibility requirements established by the department of health.

(2) The department of health may pay for health insurance coverage on behalf of persons with human immunodeficiency virus, who meet department eligibility requirements, and who are eligible for "continuation coverage" as provided by the federal consolidated omnibus budget reconciliation act of 1985, group health insurance policies, or individual policies. [2011 1st sp.s. c 15 § 72; 2007 c 259 § 38; 2003 c 274 § 2.]

***Reviser's note:** RCW 74.09.010 was amended by 2011 c 316 § 2, changing subsection (10) to subsection (11). RCW 74.09.010 was subsequently amended by 2013 2nd sp.s. c 10 § 8, changing subsection (10) to subsection (13). RCW 74.09.010 was subsequently amended by 2017 c 226 § 5, changing subsection (13) to subsection (14).

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Additional notes found at www.leg.wa.gov

43.70.675 Public health advisory board. (1) The public health advisory board is established within the department. The advisory board shall:

(a) Advise and provide feedback to the governmental public health system and provide formal public recommendations on public health;

(b) Monitor the performance of the governmental public health system;

(c) Develop goals and a direction for public health in Washington and provide recommendations to improve public health performance and to achieve the identified goals and direction;

(d) Advise and report to the secretary;

(e) Coordinate with the governor's office, department, state board of health, local health jurisdictions, and the secretary;

(f) Evaluate public health emergency response and provide recommendations for future response, including coordinating with relevant committees, task forces, and stakeholders to analyze the COVID-19 public health response; and

(g) Evaluate the use of foundational public health services funding by the governmental public health system.

(2) The public health advisory board shall consist of representatives from each of the following appointed by the governor:

(a) The governor's office;

(b) The director of the state board of health or the director's designee;

(c) The secretary of the department or the secretary's designee;

(d) The chair of the governor's interagency council on health disparities;

(e) Two representatives from the tribal government public health sector selected by the American Indian health commission;

(f) One member of the county legislative authority from an eastern Washington county selected by a statewide association representing counties;

(g) One member of the county legislative authority from a western Washington county selected by a statewide association representing counties;

(h) An organization representing businesses in a region of the state;

(i) A statewide association representing community and migrant health centers;

(j) A statewide association representing Washington cities;

(k) Four representatives from local health jurisdictions selected by a statewide association representing local public health officials, including one from a jurisdiction east of the Cascade mountains with a population between 200,000 and 600,000, one from a jurisdiction east of the Cascade mountains with a population under 200,000, one from a jurisdiction west of the Cascade mountains with a population between 200,000 and 600,000, and one from a jurisdiction west of the Cascade mountains with a population less than 200,000;

(l) A statewide association representing Washington hospitals;

(m) A statewide association representing Washington physicians;

(n) A statewide association representing Washington nurses;

(o) A statewide association representing Washington public health or public health professionals; and

(p) A consumer nonprofit organization representing marginalized populations.

(3) In addition to the members of the public health advisory board listed in subsection (2) of this section, there must be four nonvoting ex officio members from the legislature consisting of one legislator from each of the two largest caucuses in both the house of representatives and the senate.

(4) Staff support for the public health advisory board, including arranging meetings, must be provided by the department.

(5) Legislative members of the public health advisory board may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(6) The public health advisory board is a class one group under chapter 43.03 RCW. [2021 c 205 § 2.]

Finding—2021 c 205: "The legislature finds that everyone in Washington state, no matter what community they live in, should be able to rely on a public health system that is able to support a standard level of public health service. Like public safety, there is a foundational level of public health delivery that must exist everywhere for services to work. A strong public health system is only possible with intentional investments into our state's public health system. Services should be delivered efficiently, equitably, and effectively, in ways that make the best use of technology, science, expertise, and leveraged resources and in a manner that is responsive to local communities." [2021 c 205 § 1.]

43.70.680 Volunteers for emergency or disaster assistance.

(1) The department is authorized to contact persons issued credentials under this title for the purpose of requesting permission to collect his or her name, profession, and contact information as a possible volunteer in the event of a bioterrorism incident, natural disaster, public health emergency, or other emergency or disaster, as defined in RCW 38.52.010, that requires the services of health care providers.

(2) The department shall maintain a record of all volunteers who provide information under subsection (1) of this section. Upon request, the department shall provide the record of volunteers to:

(a) Local health departments;

(b) State agencies engaged in public health emergency planning and response, including the state military department;

(c) Agencies of other states responsible for public health emergency planning and response; and

(d) The centers for disease control and prevention. [2003 c 384 § 1.]

43.70.690 State asthma plan. (1) The department, in collaboration with its public and private partners, shall design a state asthma plan, based on clinically sound criteria including nationally recognized guidelines such as those established by the national asthma education prevention partner-

ship expert panel report guidelines for the diagnosis and management of asthma.

(2) The plan shall include recommendations in the following areas:

(a) Evidence-based processes for the prevention and management of asthma;

(b) Data systems that support asthma prevalence reporting, including population disparities and practice variation in the treatment of asthma;

(c) Quality improvement strategies addressing the successful diagnosis and management of the disease; and

(d) Cost estimates and sources of funding for plan implementation.

(3) The department shall submit the completed state plan to the governor and the legislature by December 1, 2005.

(4) The department shall implement the state plan recommendations made under subsection (2) of this section only to the extent that federal, state, or private funds, including grants, are available for that purpose. [2009 c 518 § 8; 2005 c 462 § 4.]

Findings—2005 c 462: See note following RCW 28A.210.370.

43.70.700 Locally grown foods—Women, infant, and children farmers market nutrition program—Fruit and vegetable benefit—Rules.

(1) The department shall adopt rules authorizing retail operation farms stores, owned and operated by a farmer and colocated with a site of agricultural production, to participate in the women, infant, and children farmers market nutrition program to provide locally grown, nutritious, unprepared fruits and vegetables to eligible program participants.

(2) Such rules must meet the provisions of 7 C.F.R. part 3016, uniform administrative requirements for grants and cooperative agreements to state and local governments, as it existed on June 12, 2008, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall distribute a fruit and vegetable benefit of no less than twenty-eight dollars per summer farmers market season to each eligible participant in the women, infant, and children farmers market nutrition program. To the extent that federal funds are available, the department shall use federal funds up to the maximum benefit allowable under federal law. [2020 c 68 § 2; 2008 c 215 § 8.]

Findings—Intent—2020 c 68: "The legislature finds that our state has a robust agricultural system, with Washington farmers producing diverse foods available at regional markets throughout the state. The legislature further finds that one in six Washington children do not know where their next meal will come from and that promoting access to fresh foods supports Washington farmers as well as food-insecure families. Hunger for families with children continues to be a significant issue across our state and a growing concern. Hunger and unhealthy diets also impact the health and development of children and a child's ability to learn. Therefore, the legislature intends to expand access to nutritious foods by increasing the fruit and vegetable benefit for participants in the women, infant, and children farmers market nutrition program." [2020 c 68 § 1.]

Findings—Intent—Short title—Captions not law—Conflict with federal requirements—2008 c 215: See notes following RCW 15.64.060.

43.70.705 Fall prevention program. Within funds appropriated for this purpose, the department shall develop a

statewide fall prevention program. The program shall include networking community services, identifying service gaps, making affordable senior-based, evaluated exercise programs more available, providing consumer education to older adults, their adult children, and the community at large, and conducting professional education on fall risk identification and reduction. [2008 c 146 § 7.]

Findings—Intent—Severability—2008 c 146: See notes following RCW 74.41.040.

43.70.710 Annual review of medication practices of five jails that use nonpractitioner jail personnel—Non-compliance. The department of health shall annually review the medication practices of five jails that provide for the delivery and administration of medications to inmates in their custody by nonpractitioner jail personnel. The review shall assess whether the jails are in compliance with sections 3 and 4, chapter 411, Laws of 2009. To the extent that a jail is found not in compliance, the department shall provide technical assistance to assist the jail in resolving any areas of noncompliance. [2009 c 411 § 5.]

43.70.715 COVID-19 public health response account.

(1) The COVID-19 public health response account is created in the custody of the state treasurer. The account shall consist of funds appropriated by the legislature and grants received by the department of health for activities in response to the coronavirus pandemic (COVID-19). Only the secretary, or the secretary's designee, may authorize expenditures from the account for costs related to the public health response to COVID-19, subject to any limitations imposed by grant funding deposited into the account. The COVID-19 public health response account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2)(a) The legislature finds that a safe, efficient, and effective delivery of vaccinations is of the utmost importance for restoring societal and economic functions. As we learn more about the virus, the vaccine, and challenges to vaccine allocation and distribution, it is anticipated that the state's COVID-19 vaccination distribution plan will evolve. To that end, the legislature has provided flexibility by funding expenditures for testing, contact tracing, mitigation activities, vaccine administration and distribution, and other allowable uses for the state, local health jurisdictions, and tribes at the discretion of the secretary and without an appropriation. However, to maintain fiscal control and to ensure spending priorities align, the department is required to collaborate and communicate with the chairs and ranking members of the health care and fiscal committees of the legislature and local health jurisdictions in advance of any significant revision of the state's COVID-19 vaccination plan and to provide regular updates on its implementation and spending.

(b) As part of the public health response to COVID-19, the expenditures from the account must be used to effectively administer the vaccine for COVID-19 and conduct testing and contact tracing. The department must ensure that COVID-19 outreach is accessible, culturally and linguistically appropriate, and that it includes community-driven partnerships and strategies.

(c) When making expenditures for administering the vaccine for COVID-19, the department must focus on identifying persons for vaccination, prioritizing underserved, underrepresented, and hard-to-reach communities, making the vaccine accessible, and providing support to schools for safe reopening. Strategies for vaccine distribution shall include the establishment and expansion of community vaccination centers, mobile vaccination units, reporting enhancements, in-home visits for vaccinations for the elderly, and transportation of individuals to vaccination sites.

(d) When making expenditures regarding testing and contact tracing, the department must provide equitable access, prioritize underserved, underrepresented, and hard-to-reach communities, and provide support and resources to facilitate the safe reopening of schools while minimizing community spread of the virus.

(e) The department may also make expenditures from the account related to developing the public health workforce using funds granted by the federal government for that purpose in section 2501, the American rescue plan act of 2021, P.L. 117-2.

(3) When making expenditures from the account, the department must include an emphasis on public communication regarding the availability and accessibility of the vaccine and testing, and the importance of vaccine and testing availability to the safe reopening of the state.

(4)(a) The department must report to the fiscal and health care committees of the legislature on a monthly basis regarding its COVID-19 response.

To the extent that it is available, the report must include data regarding vaccine distribution, testing, and contact tracing, as follows:

(i) The number of vaccines administered per day, including regional data regarding the location and age groups of persons receiving the vaccine, specifically identifying hard-to-reach communities in which vaccines were administered; and

(ii) The number of tests conducted per week, including data specifically addressing testing conducted in hard-to-reach communities.

(b)(i) Beginning with the quarter ending March 31, 2022, the department must report to the fiscal and health care committees of the legislature on a quarterly basis regarding revenues and expenditures related to the COVID-19 response. The reports must include:

(A) Quarterly expenditures of funds, by fund source, including the appropriated amounts pursuant to section 222 (76) and (77), chapter 297, Laws of 2022 for:

- (I) Diagnostic testing;
- (II) Case investigation and contact tracing;
- (III) Outbreak response;
- (IV) Care coordination;
- (V) Community outreach;
- (VI) Information and technology operations;
- (VII) Surveillance;
- (VIII) Vaccines;
- (IX) Client services;
- (X) Local health jurisdictions; and
- (XI) Tribes; and

(B) Grant amounts received during the reporting quarter that may be used in the COVID-19 response.

(ii) The quarterly reports must reflect the previous quarter, a projection of expected expenditures and revenue for the next quarter, and an accounting of the expenditures and revenue for the 2021-2023 fiscal biennium to date. The quarterly reports are due no later than 30 days after the end of the applicable quarter.

(c) The first monthly report pursuant to (a) of this subsection is due no later than one month from February 19, 2021. Monthly reports are no longer required upon the department's determination that the remaining balance of the COVID-19 public health response account is less than \$100,000. [2022 c 297 § 955; 2022 c 157 § 7; 2021 c 334 § 1004; 2021 c 3 § 19.]

Reviser's note: This section was amended by 2022 c 157 § 7 and by 2022 c 297 § 955, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2022 c 297: See note following RCW 43.79.565.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Conflict with federal requirements—2021 c 3: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2021 c 3 § 21.]

Effective date—2021 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 19, 2021]." [2021 c 3 § 22.]

43.70.720 Universal vaccine purchase account. The universal vaccine purchase account is created in the custody of the state treasurer. Receipts from public and private sources for the purpose of increasing access to vaccines for children may be deposited into the account. Expenditures from the account must be used exclusively for the purchase of vaccines, at no cost to health care providers in Washington, to administer to children under nineteen years old who are not eligible to receive vaccines at no cost through federal programs. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2010 c 174 § 10; 2009 c 564 § 934.]

Additional notes found at www.leg.wa.gov

43.70.725 Health extension program—Dissemination of evidence-based tools and resources—Rules. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a health extension program to provide training, tools, and technical assistance to primary care, behavioral health, and other providers. The program must emphasize high quality preventive, chronic disease, and behavioral health care that is comprehensive and evidence-based.

(2) The health extension program must coordinate dissemination of evidence-based tools and resources that promote:

(a) Integration of physical and behavioral health;

(b) Clinical decision support to promote evidence-based care;

(c) Reports of the Robert Bree collaborative created by RCW 70.250.050 and findings of health technology assessments under RCW 70.14.080 through 70.14.130;

(d) Methods of formal assessment;

(e) Support for patients managing their own conditions;

(f) Identification and use of resources that are available in the community for patients and their families, including community health workers; and

(g) Identification of evidence-based models to effectively treat depression and other conditions in primary care settings, such as the program advancing integrated mental health solutions, and others.

(3) The department may adopt rules necessary to implement this section, but may not adopt rules, policies, or procedures beyond the scope of authority granted in this section. [2014 c 223 § 5.]

Finding—2014 c 223: See note following RCW 41.05.690.

43.70.738 Down syndrome resources—Development.

(1)(a) The department shall develop the following resources regarding Down syndrome:

(i) Up-to-date, evidence-based, written information about Down syndrome and people born with Down syndrome that has been reviewed by medical experts and national Down syndrome organizations; and

(ii) Contact information regarding support services, including information hotlines specific to Down syndrome, resource centers or clearinghouses, national and local Down syndrome organizations, and other education and support programs.

(b) The resources prepared by the department must:

(i) Be culturally and linguistically appropriate for expectant parents receiving a positive prenatal diagnosis or for the parents of a child receiving a postnatal diagnosis of Down syndrome; and

(ii) Include: Physical, developmental, educational, and psychosocial outcomes; life expectancy; clinical course; and intellectual and functional development and therapy options.

(2) The department shall make the information described in this section available to any person who renders prenatal care, postnatal care, or genetic counseling to expectant parents receiving a positive prenatal diagnosis or to the parents of a child receiving a postnatal diagnosis of Down syndrome.

(3) For the purposes of this section, "Down syndrome" means a chromosomal condition that results in the presence of an extra whole or partial copy of chromosome 21. [2016 c 70 § 1.]

43.70.740 Adjudicative proceedings. In all adjudicative proceedings before the secretary or the department, the secretary may delegate initial decision-making authority to a presiding officer. The presiding officer shall enter an initial order pursuant to RCW 34.05.461 subject to the review of the secretary or his or her designee. Pursuant to RCW 34.05.464, the secretary may, by rule, provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified time period:

(1) The secretary upon his or her own motion determines that the initial order should be reviewed; or

(2) A party to the proceedings files a petition for administrative review of the initial order. [2013 c 109 § 3.]

43.70.750 Community assistance referral and education program—Review of certification and training—Recommendations to the legislature. The department of health must review the professional certification and training of health professionals participating in a community assistance referral and education program, review the certification and training requirements in other states with similar programs, and coordinate with the health care authority to link the certification requirements with the covered health care services recommended for payment in RCW 74.09.335. The department shall submit recommendations to the appropriate committees of the legislature for any changes and suggestions for implementation within six months of the development of the payment standards. [2017 c 273 § 3.]

43.70.765 Opioid drugs—Warning—Patient education materials. (1) The department must create a statement warning individuals about the risks of opioid use and abuse and provide information about safe disposal of opioids. The department must provide the warning on its website.

(2) The department must review the science, data, and best practices around the use of opioids and their associated risks. As evidence and best practices evolve, the department must update its warning to reflect these changes.

(3) The department must update its patient education materials to reflect the patient's right to refuse an opioid prescription or order. [2019 c 314 § 11.]

Declaration—2019 c 314: See note following RCW 18.22.810.

43.70.770 State opioid response plan. The secretary shall be responsible for coordinating the statewide response to the opioid epidemic and executing the state opioid response plan, in partnership with the health care authority. The department and the health care authority must collaborate with each of the agencies and organizations identified in the state opioid response plan. [2019 c 314 § 12.]

Declaration—2019 c 314: See note following RCW 18.22.810.

43.70.780 Fruit and vegetable incentives program.

(1) The fruit and vegetable incentives program is established to increase fruit and vegetable consumption among food insecure individuals with limited incomes. The fruit and vegetable incentives program includes:

(a) Farmers market basic food incentives to provide eligible participants with extra benefits to purchase fruits and vegetables at authorized farmers markets when the participant uses basic food benefits;

(b) Grocery store basic food incentives to provide eligible participants with extra benefits to purchase fruits and vegetables at authorized grocery stores when the participant uses basic food benefits; and

(c) Fruit and vegetable vouchers provided by a health care provider, health educator, community health worker, or other health professional to an eligible participant for use at an authorized farmers market or grocery store.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer the

fruit and vegetable incentives program. As part of its duties, the department shall:

(a) Collaborate with other state agencies whose missions and programs closely align with the fruit and vegetable incentives program, including the department of social and health services and the department of agriculture, in the development and implementation of the program;

(b) Provide resources, coordination, and technical assistance to program partners for targeted outreach to food insecure populations and for administration of the program. Program partners may include farmers markets, grocery stores, government agencies, health care systems, and nonprofit organizations; and

(c) Adopt rules to implement this section.

(3) Farmers market basic food incentives may be provided to eligible participants for use at farmers markets authorized by the department. The incentives are additional funds that may be used to purchase eligible fruits and vegetables as defined by the department. When authorizing a participating farmers market, the department may give preference to a farmers market that accepts or has previously accepted supplemental nutrition assistance program benefits, has the capacity to accept supplemental nutrition assistance program benefits, or is located in a county with a high level of food insecurity, as defined by the department.

(4) Grocery store basic food incentives may be provided to eligible participants for use at a grocery store that is an authorized supplemental nutrition assistance program retailer and approved by the department. The incentives are additional funds that may be used to purchase eligible fruits and vegetables as defined by the department. When approving a participating grocery store, the department may give preference to a store that is located in a county with a high level of food insecurity.

(5) Fruit and vegetable vouchers are cash-value vouchers that may be distributed by a participating health care provider, health educator, community health worker, or other health professional to a patient who is eligible for basic food and has a qualifying health condition, as defined by the department, or is food insecure. The voucher may be redeemed at a participating retailer, including an authorized farmers market or grocery store. The department shall approve participating health care systems and may give preference to systems that have operated fruit and vegetable prescription programs, routinely screen patients for food insecurity, have a high percentage of patients who are medicaid clients, or are located in a county with a high level of food insecurity.

(6) Subject to the availability of funds, the department must evaluate the fruit and vegetable incentives program effectiveness. When conducting the evaluation, the department must collect information related to fruit and vegetable consumption by eligible participants, levels of food security, and likely impacts on public health outcomes as a result of the program. By July 1, 2021, and in compliance with RCW 43.01.036, the department must submit a progress report to the governor and the legislature describing the results of the program and recommending any legislative or programmatic changes to improve the effectiveness of program delivery. By December 1, 2023, the department must submit a complete program evaluation describing the program's effectiveness

and including any additional recommendations for program improvements.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Eligible participant" means:

(i) For the purposes of subsection (1)(a) and (b) of this section, a recipient of basic food benefits, including the supplemental nutrition assistance program and the food assistance program, as authorized under Title 74 RCW; or

(ii) For the purposes of subsection (1)(c) of this section, a person who is determined to be food insecure by a participating health care provider.

(b) "Food insecure" means a state in which consistent access to adequate food is limited by a lack of money and other resources at times during the year. [2019 c 168 § 2.]

Findings—Intent—2019 c 168: "(1) The legislature finds that nearly eleven percent of Washington households, including more than two hundred eighty thousand children, are food insecure with limited or uncertain availability of nutritionally adequate and safe foods. The legislature further finds that food insecurity contributes to poor quality diets; chronic medical conditions such as diabetes, heart disease, and hypertension; and negative outcomes for children and families, including harmful effects on behavioral health. Further, food insecurity disproportionately affects people with low incomes, people of color, and rural residents.

(2) The legislature finds that food assistance programs such as the special supplemental nutrition program for women, infants, and children and the supplemental nutrition assistance program are effective in significantly reducing food insecurity; that participants report difficulty affording and accessing healthy foods; and that fruit and vegetable consumption among such food assistance program participants is far below national dietary guidelines.

(3) The legislature finds that the state department of health has successfully managed a food insecurity nutrition incentives grant from the United States department of agriculture that provides a framework for providing fruit and vegetable incentives for low-income shoppers and that those federal funds are set to expire in March 2020. Further, the legislature finds that more than two million dollars in fruit and vegetable incentives have been redeemed by food insecure Washingtonians through this grant, helping to alleviate food insecurity and increase fruit and vegetable consumption.

(4) Therefore, the legislature intends to create a state fruit and vegetable incentives program to benefit people who are food insecure, our agricultural industry, and retailers across the state." [2019 c 168 § 1.]

43.70.790 Health care facility inspection and investigation availability. As resources allow, the department shall make health care facility inspection and investigation statements of deficiencies, plans of correction, notice[s] of acceptance of plans of correction, enforcement actions, and notices of resolution available to the public on the internet, starting with psychiatric hospitals and residential treatment facilities. [2020 c 115 § 4.]

Findings—Intent—Effective date—2020 c 115: See notes following RCW 71.12.700.

43.70.800 Oversight, consolidation, and standardization—Review. The department must conduct a review of statutes for all health care facility types licensed by the department under chapters 18.46, 18.64, 70.41, 70.42, 70.127, 70.230, 71.12, and 71.24 RCW to evaluate appropriate levels of oversight and identify opportunities to consolidate and standardize licensing and enforcement requirements across facility types. The department must work with stakeholders including, but not limited to, the statewide associations of the facilities under review to create recommendations that will be shared with stakeholders and the legislature for a

uniform health care facility enforcement act for consideration in the 2021 legislative session. [2020 c 115 § 5.]

Findings—Intent—Effective date—2020 c 115: See notes following RCW 71.12.700.

43.70.810 Provision of medical information—Dissemination of requirements and authority. (1) The department must design, prepare, and make available online, written materials to clearly inform health care providers and staff of the provisions of, and authority to act under, chapter 70.03 RCW.

(2) The department must design, prepare, and make available online, written materials to provide information to providers and patients regarding Washington's death with dignity act, chapter 70.245 RCW. [2020 c 102 § 4.]

43.70.815 Environmental health disparities map. (1) In consultation with the environmental justice council established in RCW 70A.02.110, the department must continue to develop and maintain an environmental health disparities map with the most current available information necessary to identify cumulative environmental health impacts and overburdened communities. The department may also consult with other interested partners, such as the University of Washington department of environmental and occupational health sciences, other academic partners, members of overburdened communities and vulnerable populations, and other agencies. The environmental health disparities map must include tools to:

(a) Track changes in environmental health disparities over time in an interactive, regularly updated display; and

(b) Measure the link between overall environmental health disparity map ranks, environmental data, vulnerable populations characteristics, such as race and income, and human health data.

(2) In further developing and maintaining the environmental health disparities map, the department must:

(a) Solicit feedback from representatives from overburdened communities and vulnerable populations through community engagement and listening sessions in all regions of the state and provide opportunities for public comment; and

(b) Request assistance from:

(i) State universities;

(ii) Other academic researchers, such as the Washington state institute for public policy, to perform modeling and create evidence-based indicators and to conduct sensitivity analyses to assess the impact of new indicators on communities and determinations of overburdened communities; and

(iii) Other state agencies to provide applicable statewide environmental and sampling data for air, water, soil, polluted sites, toxic waste, pesticides, toxic chemicals, and other applicable media.

(3) The department must:

(a) Document and publish a summary of the regular updates and revisions to the environmental health disparities map that happen over time as the new data becomes available, in order to help the public understand different versions of the map as they are published;

(b) At least every three years, perform a comprehensive evaluation of the map to ensure that the most current modeling and methods available to evaluate cumulative environ-

mental health impacts are being used to develop and update the environmental health disparities map's indicators;

(c) Develop technical guidance for agencies that includes an online training video detailing a description of how to use the environmental health disparities map's features, access source data, and explanation of map and indicator limitations; and

(d) Provide support and consultation to agencies on the use of the environmental health disparities map by Washington tracking network staff.

(4)(a) By November 1, 2022, the Washington state institute for public policy must conduct a technical review of the measures and methods used in the environmental health disparities map. The review must, to the extent possible, address the following:

(i) Identify how the measures used in the map compare to measures used in other similar tools that aim to identify communities that are disproportionately impacted as a result of environmental justice issues;

(ii) Compare characteristics such as the reliability, validity, and clinical importance of individual and composite measures included in the map and other similar tools; and

(iii) Compare methodologies used in the map to statistical methodologies used in other similar tools.

(b) The department of health and the University of Washington must provide technical documentation regarding current methods to the Washington state institute for public policy and must consult with the institute as needed to ensure that the institute has adequate information to complete the technical review.

(c) By November 1, 2022, the Washington state institute for public policy must submit a report on their findings to the office of the governor, the appropriate committees of the legislature, and the environmental justice council. [2021 c 314 § 19.]

Conflict with federal requirements—2021 c 314: See note following RCW 70A.02.005.

43.70.820 Environmental justice obligations of the department of health. The department must apply and comply with the substantive and procedural requirements of chapter 70A.02 RCW. [2021 c 314 § 4.]

Conflict with federal requirements—2021 c 314: See note following RCW 70A.02.005.

43.70.825 School-based health center program office.

(1) The school-based health center program office is established within the department, with the objective to expand and sustain the availability of school-based health center services to K-12 students in public schools, with a focus on historically underserved populations.

(2) Subject to the availability of amounts appropriated for this specific purpose, the school-based health center program office shall:

(a) Develop funding criteria and metrics for monitoring and evaluation in partnership with a statewide nonprofit organization providing training and technical assistance to school-based health centers;

(b) Award grant funding for school-based health centers. The department may grant funding for the following purposes:

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(i) Planning a school-based health center;

(ii) Start-up costs associated with setting up a school-based health center; and

(iii) Ongoing costs of operating a school-based health center;

(c) Monitor and evaluate school-based health centers that receive grant funding from the program office;

(d) Partner with a statewide nonprofit organization to provide training and technical assistance to school-based health centers; and

(e) Coordinate with the statewide nonprofit organization providing training and technical assistance, educational service districts, the health care authority, hosting school districts, and the office of the insurance commissioner, to provide support to school-based health centers.

(3) For purposes of this section, a "school-based health center" means a collaboration between the community, the school, and a sponsoring agency that operates the school-based health center, which is a student-focused health center located in or adjacent to a school that provides integrated medical, behavioral health, and other health care services such as dental care. [2021 c 68 § 2.]

Findings—Intent—2021 c 68: "(1) The legislature finds that:

(a) Research shows that school-based health centers provide a crucial link between health and education, improving outcomes for students in both areas;

(b) Health and academic disparities are increasing during the COVID-19 pandemic, particularly for students of color;

(c) School-based health centers advance equity by providing health care access and support at schools;

(d) School-based health centers have been operating across the state for more than 30 years;

(e) Local control and decision making for school-based health centers is important; and

(f) In 2016, the legislature created the Washington integrated student supports protocol as a strategy to close educational opportunity gaps through school-based coordination of academic and nonacademic supports for students.

(2) Therefore, the legislature intends to create a school-based health center program office within the department of health to award grants and coordinate with other agencies and entities to provide support, training, and technical assistance to school-based health centers." [2021 c 68 § 1.]

43.70.830 Lead contamination in drinking water in school buildings—Sampling and testing—Data-sharing agreement. (1) The department shall conduct sampling and testing for lead contamination at drinking water outlets in school buildings built, or with all plumbing replaced, before 2016 as specified in this section. The department meets the requirements of this section when a school contracts for sampling and testing that meets the requirements of this section and submits the test results to the department according to a procedure and deadlines determined by the department.

(2) Sampling and testing for the presence and level of lead in drinking water must meet the technical requirements described in the technical guidance.

(3)(a) Initial testing for lead contamination in drinking water must be conducted between July 1, 2014, and June 30, 2026.

(b) Retesting for lead contamination in drinking water must be conducted no less than every five years beginning July 1, 2026.

(4)(a) The department shall develop and publish a two-year plan for sampling and testing. The plan must be updated

at least annually. Prior to adding a school to the plan, the department must contact the school to determine whether the school has contracted, or is planning to contract, for sampling and testing.

(b) Beginning July 1, 2026, in developing the two-year plan for sampling and testing, the department must group school buildings by governing body and then prioritize the groups based on the combined length of time since each school building built, or with all plumbing replaced, before 2016 was sampled and tested.

(5) The department shall enter a data-sharing agreement with the office of the superintendent of public instruction for the purpose of compiling a list of school buildings built, or with all plumbing replaced, before 2016.

(6) The definitions in RCW 28A.210.410 apply throughout this section unless the context clearly requires otherwise. [2021 c 154 § 3.]

Findings—Intent—2021 c 154: (1) The legislature recognizes that the United States environmental protection agency and centers for disease control and prevention acknowledge that there is no known safe level of lead in a child's blood. Even low levels of lead exposure can cause permanent cognitive, academic, and behavioral difficulties in children. The American academy of pediatrics recommends government action to ensure that the lead concentration in drinking water at schools does not exceed one part per billion.

(2) The legislature finds that the department of health sampled and tested drinking water outlets in 551 elementary schools between 2017 and 2020. 82 percent of these schools had lead contamination of five or more parts per billion in one or more drinking water outlets and 49 percent of these schools had lead contamination of 15 or more parts per billion in one or more drinking water outlets.

(3) The legislature acknowledges that the department of health was appropriated \$1,000,000 in the 2019-2021 fiscal biennium to continue the testing for lead contamination in school drinking water. The legislature also finds that the office of the superintendent of public instruction was appropriated funds in the 2019-2021 fiscal biennium for the healthy kids/healthy schools initiative. Part of these funds are for the purpose of distributing grants to school districts for remediation of elevated lead levels in drinking water. The legislature encourages districts to apply for these grants when lead test results reveal elevated lead levels, which are lead levels above five parts per billion.

(4) The legislature acknowledges the historically inequitable distribution of lead exposure for communities of color and of low socioeconomic status and plans to make a priority the protection of children from the dangers of lead exposure through school drinking water. The legislature, therefore, intends to require that drinking water outlets in elementary and secondary school buildings built, or with all plumbing replaced, before 2016 be tested for the presence and level of lead contamination by June 30, 2026, and every five years thereafter. The legislature also intends to require that schools notify the school community of lead test results and develop action plans for remediation if test results exceed the health-based standard of five parts per billion.

(5) The legislature recognizes that the youngest children are the most vulnerable to lead exposure and that many of these children spend significant amounts of time at child care facilities.

(6) This act is named for the director of the Washington public interest research group who developed and advocated for this legislation before dying of cancer in 2019 and may be known as the Bruce Speight protect children from being exposed to lead in school drinking water act." [2021 c 154 § 1.]

Short title—2021 c 154: "This act may be known and cited as the Bruce Speight protect children from being exposed to lead in school drinking water act." [2021 c 154 § 8.]

43.70.835 Lead contamination in drinking water in school buildings—State-tribal compact schools. The department shall allow state-tribal compact schools established under chapter 28A.715 RCW to opt into sampling and testing for lead contamination at drinking water outlets in

school buildings built, or with all plumbing replaced, before 2016 pursuant to RCW 43.70.830. [2021 c 154 § 4.]

Findings—Intent—Short title—2021 c 154: See notes following RCW 43.70.830.

43.70.840 Lead contamination in drinking water in school buildings—Technical guidance. The department shall develop and make available technical guidance for reducing lead contamination in drinking water at schools that is at least as protective of student health as any technical guidance on this topic issued by the United States environmental protection agency. The technical guidance must include the technical requirements for sampling, processing, and analysis, including that analysis must be conducted by a laboratory accredited by the department of ecology. The technical guidance must describe best practices for remediating elevated lead levels at drinking water outlets in schools. Best practices must include installing and maintaining filters certified by a body accredited by the American national standards institute. Provisions of the technical guidance related to testing for the presence and level of lead in drinking water, as opposed to testing to identify sources of lead for remediation, must be designed to maximize detection of lead in water, and therefore must prohibit sampling or analytical methods that tend to mask lead contamination, including prestagnation flushing and removal of aerators prior to sampling. [2021 c 154 § 5.]

Findings—Intent—Short title—2021 c 154: See notes following RCW 43.70.830.

43.70.845 Lead contamination in drinking water in school buildings—Department of health as lead agency—Waiver. (1) To the fullest extent permitted by federal law, the department, rather than community water systems, is designated as the lead or principal agency in regard to lead in drinking water sampling, testing, notification, remediation, public education, and other actions at public and private elementary and secondary schools as required by the federal lead and copper rule, 40 C.F.R. Part 141.

(2) The department must issue a written waiver that exempts community water systems that serve schools from the sampling and testing requirements of 40 C.F.R. Part 141.92 related to schools if the department determines that the mandatory requirements for sampling and testing for, and remediation of, lead contamination in drinking water outlets at elementary and secondary schools under chapter 154, Laws of 2021 are consistent with the requirements in 40 C.F.R. Part 141.92 of the federal lead and copper rule. [2021 c 154 § 7.]

Findings—Intent—Short title—2021 c 154: See notes following RCW 43.70.830.

43.70.850 Suicide-safer homes task force. (*Expires July 1, 2024.*) (1) Subject to the availability of amounts appropriated for this specific purpose, a suicide-safer homes task force is established to raise public awareness and increase suicide prevention education among new partners who are in key positions to help reduce suicide. The task force shall be administered and staffed by the department of veterans affairs. To the extent possible, the task force mem-

bership should include representatives from geographically diverse and priority populations, including tribal populations.

(2) The suicide-safer homes task force shall be cochaired by the director, or the director's designee, of the department of veterans affairs and the director, or the director's designee, of the forefront suicide prevention center and also consist of the following members:

(a) Two representatives of suicide prevention organizations, selected by the cochairs of the task force;

(b) Two representatives of the firearms industry, selected by the cochairs of the task force;

(c) Two individuals who are suicide attempt survivors or who have experienced suicide loss, selected by the cochairs of the task force;

(d) Two representatives of law enforcement agencies, selected by the cochairs of the task force;

(e) One representative from the department of health;

(f) One representative from the department of fish and wildlife;

(g) One individual representing veterans;

(h) One member of a Washington or federally recognized Indian tribe;

(i) Two veterans;

(j) One representative of the national rifle association;

(k) One representative of the Second Amendment foundation;

(l) One representative of a nonprofit organization working on gun safety issues;

(m) One representative of a national firearms trade association;

(n) One representative of a Washington state pharmacy association; and

(o) No more than five other interested parties, selected by the cochairs of the task force.

(3) The department of veterans affairs shall convene the initial meeting of the task force.

(4) The task force shall:

(a) Develop and prepare to disseminate online trainings on suicide awareness and prevention for firearms dealers and their employees and firearm range owners and their employees;

(b) Partner with medical providers, firearms dealers, firearms ranges, and pharmacies to develop and distribute suicide awareness and prevention messages for posters and brochures;

(c) In consultation with the department of fish and wildlife, develop strategies for creating and disseminating suicide awareness and prevention information for hunting safety classes, including messages to parents that can be shared during online registration, in either follow-up email communications, or in writing, or both;

(d) Create a website that will be a clearinghouse for the newly created suicide awareness and prevention materials developed by the task force;

(e) Continue to support medical providers with suicide prevention and awareness work through the dissemination of collateral education programs;

(f) Allocate funding towards the purchase of lock boxes for dissemination via the forefront suicide prevention center's TeleSAFER program;

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(g) Develop and direct advocacy efforts with firearms dealers to pair suicide awareness and prevention training with distribution of safe storage devices;

(h) Partner with a statewide pharmacy association to market and promote medication disposal kits and safe storage devices;

(i) Train health care providers on suicide awareness and prevention, paired with distribution of medication disposal kits and safe storage devices; and

(j) Train local law enforcement officers on suicide awareness and prevention, paired with distribution of medication disposal kits and safe storage devices.

(5) The forefront suicide prevention center shall provide subject matter expertise, technical and programmatic support, and consultation and evaluation to the task force.

(6) Beginning December 1, 2022, the task force shall annually report to the legislature on the status of its work.

(7) This section expires July 1, 2024. [2022 c 191 § 7.]

Findings—Intent—2022 c 191: See note following RCW 43.60A.260.

43.70.900 References to the secretary or department of social and health services—1989 1st ex.s. c 9. All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.080, 18.104.005, 70.08.005, 70.24.005, 70.40.005, 70.41.005, and 70.54.005. [2017 3rd sp.s. c 25 § 24; 2015 1st sp.s. c 4 § 31; 2007 c 52 § 2; 1990 c 33 § 580; 1989 1st ex.s. c 9 § 801.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

43.70.901 References to the director or department of licensing—1989 1st ex.s. c 9. All references to the director of licensing or department of licensing in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.220. [1989 1st ex.s. c 9 § 802.]

43.70.902 References to the hospital commission—1989 1st ex.s. c 9. All references to the hospital commission in the Revised Code of Washington shall be construed to mean the secretary or the department of health. [1989 1st ex.s. c 9 § 803.]

43.70.910 Effective date—1989 1st ex.s. c 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989. [1989 1st ex.s. c 9 § 825.]

43.70.920 Severability—1989 1st ex.s. c 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 9 § 826.]

Chapter 43.71 RCW

WASHINGTON HEALTH BENEFIT EXCHANGE

Sections

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43.71.005 Finding—Intent. (1) The legislature finds that the affordable care act requires the establishment of health benefit exchanges. The legislature intends to establish an exchange, including a governance structure. There are many policy decisions associated with establishing an exchange that need to be made that will take a great deal of effort and expertise. It is therefore the intent of the legislature to establish a process through which these policy decisions can be made by the legislature and the governor by the deadline established in the affordable care act.

(2) The exchange is intended to:

(a) Increase access to quality affordable health care coverage, reduce the number of uninsured persons in Washington state, and increase the availability of health care coverage through the private health insurance market to qualified individuals and small employers;

(b) Provide consumer choice and portability of health insurance, regardless of employment status;

(c) Create an organized, transparent, and accountable health insurance marketplace for Washingtonians to purchase affordable, quality health care coverage, to claim available federal refundable premium tax credits and cost-sharing subsidies, and to meet the personal responsibility requirements for minimum essential coverage as provided under the federal affordable care act;

(d) Promote consumer literacy and empower consumers to compare plans and make informed decisions about their health care and coverage;

(e) Effectively and efficiently administer health care subsidies and determination of eligibility for participation in publicly subsidized health care programs, including the exchange;

(f) Create a health insurance market that competes on the basis of price, quality, service, and other innovative efforts;

(g) Operate in a manner compatible with efforts to improve quality, contain costs, and promote innovation;

(h) Recognize the need for a private health insurance market to exist outside of the exchange; and

(i) Recognize that the regulation of the health insurance market, both inside and outside the exchange, should continue to be performed by the insurance commissioner. [2011 c 317 § 1.]

43.71.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. Terms and phrases used in this chapter that are not defined in this section must be defined as consistent with implementation of a state health benefit exchange pursuant to applicable federal law.

(1) "Authority" means the Washington state health care authority, established under chapter 41.05 RCW.

(2) "Board" means the governing board established in RCW 43.71.020.

(3) "Commissioner" means the insurance commissioner, established in Title 48 RCW.

(4) "Exchange" means the Washington health benefit exchange established in RCW 43.71.020.

(5) "Self-sustaining" means capable of operating with revenue attributable to the operations of the exchange. Self-sustaining sources include, but are not limited to, federal grants, federal premium tax subsidies and credits, charges to health carriers, premiums paid by enrollees, and premium taxes under RCW 48.14.0201(5)(b) and 48.14.020(2). [2018 c 44 § 1; 2013 2nd sp.s. c 6 § 1; 2012 c 87 § 2; 2011 c 317 § 2.]

43.71.020 Washington health benefit exchange. (1) The Washington health benefit exchange is established and constitutes a self-sustaining public-private partnership separate and distinct from the state, exercising functions delineated in chapter 317, Laws of 2011. By January 1, 2014, the exchange shall operate consistent with applicable federal law subject to statutory authorization. The exchange shall have a governing board consisting of persons with expertise in the Washington health care system and private and public health care coverage. The membership of the board shall be appointed as follows:

(a) Each of the two largest caucuses in both the house of representatives and the senate shall submit to the governor a list of five nominees who are not legislators or employees of the state or its political subdivisions, with no caucus submitting the same nominee.

(i) The nominations from the largest caucus in the house of representatives must include at least one employee benefit specialist;

(ii) The nominations from the second largest caucus in the house of representatives must include at least one health economist or actuary;

(iii) The nominations from the largest caucus in the senate must include at least one representative of health consumer advocates;

(iv) The nominations from the second largest caucus in the senate must include at least one representative of small business;

(v) The remaining nominees must have demonstrated and acknowledged expertise in at least one of the following areas: Individual health care coverage, small employer health care coverage, health benefit plan administration, health care

finance and economics, actuarial science, or administering a public or private health care delivery system.

(b) The governor shall appoint two members from each list submitted by the caucuses under (a) of this subsection. The appointments made under this subsection (1)(b) must include at least one employee benefits specialist, one health economist or actuary, one representative of small business, and one representative of health consumer advocates. The remaining four members must have a demonstrated and acknowledged expertise in at least one of the following areas: Individual health care coverage, small employer health care coverage, health benefit plan administration, health care finance and economics, actuarial science, or administering a public or private health care delivery system.

(c) The governor shall appoint a ninth member to serve as chair. The chair may not be an employee of the state or its political subdivisions. The chair shall serve as a nonvoting member except in the case of a tie.

(d) The following members shall serve as nonvoting, ex officio members of the board:

(i) The insurance commissioner or his or her designee; and

(ii) The administrator of the health care authority, or his or her designee.

(2) Initial members of the board shall serve staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms.

(3) A member of the board whose term has expired or who otherwise leaves the board shall be replaced by gubernatorial appointment. Upon the expiration of a member's term, the member shall continue to serve until a successor has been appointed and has assumed office. When the person leaving was nominated by one of the caucuses of the house of representatives or the senate, his or her replacement shall be appointed from a list of five nominees submitted by that caucus within thirty days after the person leaves. If the member to be replaced is the chair, the governor shall appoint a new chair within thirty days after the vacancy occurs. A person appointed to replace a member who leaves the board prior to the expiration of his or her term shall serve only the duration of the unexpired term. Members of the board may be reappointed to multiple terms.

(4) No board member may be appointed if his or her participation in the decisions of the board could benefit his or her own financial interests or the financial interests of an entity he or she represents. A board member who develops such a conflict of interest shall resign or be removed from the board.

(5) Members of the board must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. Meetings of the board are at the call of the chair.

(6) The exchange and the board are subject only to the provisions of chapter 42.30 RCW, the open public meetings act, and chapter 42.56 RCW, the public records act, and not to any other law or regulation generally applicable to state agencies. Consistent with the open public meetings act, the board may hold executive sessions to consider proprietary or confidential unpublished information.

(7)(a) The board shall establish an advisory committee to allow for the views of the health care industry and other

stakeholders to be heard in the operation of the health benefit exchange.

(b) The board may establish technical advisory committees or seek the advice of technical experts when necessary to execute the powers and duties included in chapter 317, Laws of 2011.

(8) Members of the board are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them for any action taken or not taken, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties under chapter 317, Laws of 2011. Nothing in this section prohibits legal actions against the board to enforce the board's statutory or contractual duties or obligations.

(9) In recognition of the government-to-government relationship between the state of Washington and the federally recognized tribes in the state of Washington, the board shall consult with the American Indian health commission. [2018 c 44 § 2; 2012 c 87 § 3; 2011 c 317 § 3.]

43.71.030 Exchange—Powers and duties—Annual report and plan. (1) The exchange has the authority to:

(a) Provide an application and enrollment portal for individual and small group health and dental insurance and state and federal health care programs;

(b) Certify qualified health and dental plans to be offered for enrollment through the exchange;

(c) Provide consumer education and assistance regarding cost and coverage of certified plans, plan selection, eligibility for subsidies, and health insurance literacy, which must include, but not be limited to, a website, toll-free call center, and consumer assistance by navigators and insurance producers;

(d) Determine eligibility for premium tax credits, cost-sharing reductions, other available subsidies, and enrollment in state and federal health care programs consistent with applicable federal law; and

(e) Provide data and assistance necessary to facilitate payments of premium tax credits and other subsidies.

(2) The exchange may, in exercising its authority consistent with the purposes of this chapter: (a) Sue and be sued in its own name; (b) make and execute agreements, contracts, and other instruments, with any public or private person or entity; (c) employ, contract with, or engage personnel; (d) pay administrative costs; (e) accept grants, donations, loans of funds, and contributions in money, services, materials or otherwise, from the United States or any of its agencies, from the state of Washington and its agencies or from any other source, and use or expend those moneys, services, materials, or other contributions; (f) aggregate or delegate the aggregation of funds that comprise the premium for a health plan; and (g) perform other duties necessary for enrollment in health coverage through the exchange.

(3) The board shall develop and implement a methodology to ensure the exchange is self-sustaining. The board shall seek input from health carriers to develop funding mechanisms that fairly and equitably apportion among carriers the reasonable administrative costs and expenses incurred to implement the provisions of this chapter.

(4) The board shall establish policies that permit city and county governments, Indian tribes, tribal organizations, urban Indian organizations, private foundations, and other entities to pay premiums and cost sharing on behalf of qualified individuals.

(5) The employees of the exchange may participate in the public employees' retirement system under chapter 41.40 RCW and the public employees' benefits board under chapter 41.05 RCW.

(6) Qualified employers may access coverage for their employees through the exchange for small groups under applicable federal law. The exchange shall enable any qualified employer to specify a level of coverage so that any of its employees may enroll in any qualified health plan offered through the small group exchange at the specified level of coverage. The exchange may offer information to consumers and small businesses about qualified small employer health reimbursement arrangements.

(7) The exchange shall report its activities and status to the governor and the legislature as requested, and no less often than annually.

(8) By January 1st of each year, the exchange must submit to the legislature, the governor's office, and the board an annual financial report that identifies the annual cost of operating the exchange. The report must identify specific reductions in spending in the following areas: Call center, information technology, and staffing. The report must include:

- (a) A report of all expenses;
- (b) Beginning and ending fund balances, by fund source;
- (c) Any contracts or contract amendments signed by the exchange;
- (d) An accounting of staff required to operate the exchange broken out by full-time equivalent positions, contracted employees, temporary staff, and any other relevant designation that indicates the staffing level of the exchange; and

(e) A per member per month metric, per qualified health plan enrollee and apple health enrollee, calculated by dividing funds allocated for the exchange over the 2015-2017 biennium by the number of enrollees in both qualified health plans and apple health during the year.

(9)(a) The exchange shall prepare and annually update a strategic plan for the development, maintenance, and improvement of exchange operations for the purpose of assisting the exchange in establishing priorities to better serve the needs of its specific constituency and the public in general. The strategic plan is the exchange's process for defining its methodology for achieving optimal outcomes, for complying with applicable state and federal statutes, rules, regulations, and mandatory policies, and for guaranteeing an appropriate level of transparency in its dealings. The strategic plan must include, but is not limited to:

- (i) Comprehensive five-year and ten-year plans for the exchange's direction with clearly defined outcomes and goals;
- (ii) Concrete plans for achieving or surpassing desired outcomes and goals;
- (iii) Strategy for achieving enrollment and reenrollment targets;
- (iv) Detailed stakeholder and external communication plans; and

(v) Identification of funding sources, and a plan for how it will fund and allocate resources to pursue desired goals and outcomes.

(b) The strategic plan and its updates must be submitted to the authority, the appropriate committees of the legislature, and the board by September 30th of each year. [2018 c 44 § 3; 2015 3rd sp.s. c 33 § 1; 2012 c 87 § 4; 2011 c 317 § 4.]

Effective date—2012 c 87 §§ 4, 16, 18, and 19-23: "Sections 4, 16, 18, and 19 through 23 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [March 23, 2012]." [2012 c 87 § 28.]

43.71.060 Health benefit exchange account. (1) The health benefit exchange account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used to fund the operation of the exchange and identification, collection, and distribution of premium taxes collected under RCW 48.14.0201(5)(b) and 48.14.020(2).

(2) The following funds must be deposited in the account:

- (a) Premium taxes collected under RCW 48.14.0201(5)(b) and 48.14.020(2);
- (b) Assessments authorized under RCW 43.71.080; and
- (c) Amounts transferred by the pool administrator as specified in the state omnibus appropriations act pursuant to RCW 48.41.090.

(3) All receipts from federal grants received may be deposited into the account. Expenditures from the account may be used only for purposes consistent with the grants. [2018 c 44 § 4; 2013 2nd sp.s. c 6 § 2; 2012 c 87 § 5; 2011 c 317 § 7.]

43.71.065 Qualified health plans—Certification—Criteria stand-alone dental plans—Direct primary care medical home plans—Appeals. (1) The board shall certify a plan as a qualified health plan to be offered through the exchange if the plan is determined by the:

- (a) Insurance commissioner to meet the requirements of Title 48 RCW and rules adopted by the commissioner pursuant to chapter 34.05 RCW to implement the requirements of Title 48 RCW;
- (b) Board to meet the requirements of applicable federal law for certification as a qualified health plan; and
- (c) Board to include tribal clinics and urban Indian clinics as essential community providers in the plan's provider network consistent with federal law. If consistent with federal law, integrated delivery systems shall be exempt from the requirement to include essential community providers in the provider network.

(2) Consistent with applicable federal law, the board shall allow stand-alone dental plans to offer coverage in the exchange beginning January 1, 2014. Dental benefits offered in the exchange must be offered and priced separately to assure transparency for consumers.

(3) The board may permit direct primary care medical home plans, consistent with applicable federal law, to be offered in the exchange.

(4) Upon request by the board, a state agency shall provide information to the board for its use in determining if the requirements under subsection (1)(b) or (c) of this section

have been met. Unless the agency and the board agree to a later date, the agency shall provide the information within sixty days of the request. The exchange shall reimburse the agency for the cost of compiling and providing the requested information within one hundred eighty days of its receipt.

(5) A decision by the board denying a request to certify or recertify a plan as a qualified health plan may be appealed according to procedures adopted by the board. [2018 c 44 § 5; 2012 c 87 § 8.]

43.71.067 Qualified health plans—Prohibited marketing practices or benefit designs—Rules. (1) For qualified health plans, an issuer [issuer] offering a qualified health plan may not employ marketing practices or benefit designs that have the effect of discouraging enrollment in the plan by individuals with significant health needs.

(2) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act. [2019 c 33 § 16.]

Effective date—2019 c 33: See note following RCW 48.43.005.

43.71.070 Rating system—Rating factors. The board shall establish a rating system consistent with applicable federal law, for qualified health plans to assist consumers in evaluating plan choices in the exchange. Rating factors established by the board may include, but are not limited to:

- (1) Affordability with respect to premiums, deductibles, and point-of-service cost-sharing;
- (2) Enrollee satisfaction;
- (3) Provider reimbursement methods that incentivize health homes or chronic care management or care coordination for enrollees with complex, high-cost, or multiple chronic conditions;
- (4) Promotion of appropriate primary care and preventive services utilization;
- (5) High standards for provider network adequacy, including consumer choice of providers and service locations and robust provider participation intended to improve access to underserved populations through participation of essential community providers, family planning providers and pediatric providers;
- (6) High standards for covered services, including languages spoken or transportation assistance; and
- (7) Coverage of benefits for spiritual care services that are deductible under section 213(d) of the internal revenue code. [2018 c 44 § 6; 2012 c 87 § 9.]

43.71.075 Navigator not soliciting or negotiating insurance—Health care information—Protection—Disclosure—Notification. (1) A person or entity functioning as a navigator shall not be considered soliciting or negotiating insurance as stated under chapter 48.17 RCW.

(2)(a) A person or entity functioning as a navigator may only request health care information that is relevant to the specific assessment and recommendation of health plan options. Any health care information received by a navigator may not be disclosed to any third party that is not part of the enrollment process and must be destroyed after enrollment has been completed.

(b) If a person's health care information is received and disclosed to a third party in violation of (a) of this subsection, the navigator must notify the person of the breach. The exchange must develop a policy to establish a reasonable notification period and what information must be included in the notice. This policy and information on the exchange's confidentiality policies must be made available on the exchange's website.

(3) For the purposes of this section:

(a) "Health care information" has the meaning provided in RCW 70.02.010.

(b) "Navigator" means a person or entity certified by the exchange to provide culturally and linguistically appropriate education and assistance and facilitate enrollment in qualified health plans and federal and state health care programs, in a manner consistent with applicable federal law. [2018 c 44 § 7; 2014 c 220 § 3; 2012 c 87 § 25.]

Effective date—2014 c 220: See note following RCW 70.02.290.

43.71.080 Assessment to fund exchange—Generally—Stand-alone dental plans. (1)(a) Beginning January 1, 2015, the exchange may require each issuer writing premiums for qualified health benefit plans or stand-alone pediatric dental plans offered through the exchange to pay an assessment in an amount necessary to fund the operations of the exchange, applicable to operational costs incurred beginning January 1, 2015.

(b) The assessment is an exchange user fee. Assessments of issuers may be made only if the amount of expected premium taxes, as provided under RCW 48.14.0201(5)(b) and 48.14.020(2), and other funds deposited in the health benefit exchange account in the current calendar year (excluding premium taxes on stand-alone family dental plans and the assessment received under subsection (3) of this section applicable to stand-alone family dental plans) are insufficient to fund exchange operations in the following calendar year at the level authorized by the legislature for that purpose in the omnibus appropriations act plus three months of additional operating costs.

(c) A health benefit plan or stand-alone dental plan may identify the amount of the assessment to enrollees, but must not bill the enrollee for the amount of the assessment separately from the premium.

(2) The board, in collaboration with the issuers, the health care authority, and the commissioner, must establish a fair and transparent process for calculating the assessment amount. The process must meet the following requirements:

(a) The assessment only applies to issuers that offer coverage in the exchange and only for those market segments offered and must be based on the number of enrollees in qualified health plans and stand-alone dental plans in the exchange for a calendar year;

(b) The assessment must be established on a flat dollar and cents amount per member per month, and the assessment for stand-alone pediatric dental plans must be proportional to the premiums paid for stand-alone dental plans in the exchange;

(c) Issuers must be notified of the assessment amount by the exchange on a timely basis;

(d) An appropriate assessment reconciliation process must be established by the exchange that is administratively efficient;

(e) Issuers must remit the assessment due to the exchange in quarterly installments after receiving notification from the exchange of the due dates of the quarterly installments;

(f) A procedure must be established to allow issuers subject to assessments under this section to have grievances reviewed by an impartial body and reported to the board; and

(g) A procedure for enforcement must be established if an issuer fails to remit its assessment amount to the exchange within ten business days of the quarterly installment due date.

(3)(a) The exchange may require each issuer writing premiums for stand-alone family dental plans offered through the exchange to pay an assessment in an amount necessary to fund the operational costs of offering family dental plans in the exchange, applicable to operational costs incurred beginning January 1, 2017.

(b) The assessment is an exchange user fee. Assessments of issuers may be made only if the amount of expected premium tax received from stand-alone family dental plans, as provided under RCW 48.14.0201(5)(b) and 48.14.020(2), in the current year is insufficient to fund the operational costs estimated to be attributable to offering such stand-alone family dental plans in the exchange, including an allocation of costs to proportionately cover overall exchange operational costs, in the following calendar year, plus three months of additional operating costs.

(c) If the exchange is charging an assessment, the exchange shall display the amount of the assessment per member per month for enrollees. A stand-alone family dental plan may identify the amount of the assessment to enrollees, but must not bill the enrollee for the amount of the assessment separately from the premium.

(d) The board, in collaboration with the family dental issuers and the commissioner, must establish a fair and transparent process for calculating the assessment amount, including the allocation of overall exchange operational costs. The process must meet the following requirements:

(i) The assessment only applies to issuers that offer stand-alone family dental plans in the exchange and must be based on the number of enrollees in such plans in the exchange for a calendar year;

(ii) The assessment must be established on a flat dollar and cents amount per member per month;

(iii) The requirements included in subsection (2)(c) through (g) of this section shall apply to the assessment described in this subsection (3).

(e) The board, in collaboration with issuers, shall annually assess the viability of offering stand-alone family dental plans on the exchange.

(4) For purposes of this section:

(a) "Stand-alone family dental plan" means coverage for limited scope dental benefits meeting the requirements of section 9832(c)(2)(A) of the internal revenue code of 1986 and providing pediatric oral services that qualify as coverage for the minimum essential coverage requirement under applicable federal and state law.

(b) "Stand-alone pediatric dental plan" means coverage only for pediatric oral services that qualify as coverage for

the minimum essential coverage requirement under applicable federal and state law.

(5) The exchange shall deposit proceeds from the assessments in the health benefit exchange account under RCW 43.71.060.

(6) The assessment described in this section shall be considered a special purpose obligation or assessment in connection with coverage described in this section for the purpose of funding the operations of the exchange, and may not be applied by issuers to vary premium rates at the plan level.

(7) This section does not prohibit an enrollee of a qualified health plan in the exchange from purchasing a plan that offers dental benefits outside the exchange.

(8) This section does not prohibit an issuer from offering a plan that covers dental benefits that do not meet the requirements of a stand-alone family dental plan outside the exchange.

(9) The exchange shall monitor enrollment and provide periodic reports which must be available on its website.

(10) The board shall offer all qualified health plans through the exchange, and the exchange shall not add criteria for certification of qualified health plans beyond those set out in RCW 43.71.065 without specific statutory direction. Nothing shall be construed to limit duties, obligations, and authority otherwise legislatively delegated or granted to the exchange. [2018 c 44 § 8; 2016 c 133 § 3; 2013 2nd sp.s. c 6 § 3.]

43.71.095 Standardized health plans. (1) The exchange, in consultation with the commissioner, the authority, an independent actuary, and other stakeholders, must establish up to three standardized health plans for each of the bronze, silver, and gold levels.

(a) The standardized health plans must be designed to reduce deductibles, make more services available before the deductible, provide predictable cost sharing, maximize subsidies, limit adverse premium impacts, reduce barriers to maintaining and improving health, and encourage choice based on value, while limiting increases in health plan premium rates.

(b) The exchange may update the standardized health plans annually.

(c) The exchange must provide a notice and public comment period before finalizing each year's standardized health plans.

(d) The exchange must provide written notice of the standardized health plans to licensed health carriers by January 31st before the year in which the health plans are to be offered on the exchange. The exchange may make modifications to the standardized plans after January 31st to comply with changes to state or federal law or regulations.

(2)(a) Beginning January 1, 2021, any health carrier offering a qualified health plan on the exchange must offer the silver and gold standardized health plans established under this section on the exchange in each county where the carrier offers a qualified health plan. If a health carrier offers a bronze health plan on the exchange, it must offer the bronze standardized health plans established under this section on the exchange in each county where the carrier offers a qualified health plan.

(b)(i) Until December 31, 2022, a health carrier offering a standardized health plan under this section may also offer

nonstandardized health plans on the exchange. Beginning January 1, 2023, a health carrier offering a standardized health plan under this section may also offer up to two nonstandardized gold health plans, two nonstandardized bronze health plans, one nonstandardized silver health plan, one nonstandardized platinum health plan, and one nonstandardized catastrophic health plan in each county where the carrier offers a qualified health plan.

(ii) The exchange, in consultation with the office of the insurance commissioner, shall analyze the impact to exchange consumers of offering only standard plans beginning in 2025 and submit a report to the appropriate committees of the legislature by December 1, 2023. The report must include an analysis of how plan choice and affordability will be impacted for exchange consumers across the state, including an analysis of offering a bronze standardized high deductible health plan compatible with a health savings account, and a gold standardized health plan closer in actuarial value to the silver standardized health plan.

(iii) The actuarial value of nonstandardized silver health plans offered on the exchange may not be less than the actuarial value of the standardized silver health plan with the lowest actuarial value.

(c) A health carrier offering a standardized health plan on the exchange under this section must continue to meet all requirements for qualified health plan certification under RCW 43.71.065 including, but not limited to, requirements relating to rate review and network adequacy. [2021 c 246 § 7; 2019 c 364 § 1.]

43.71.100 Access to information about exclusion of mandated benefits from qualified health plans—Exchange's duties. (1) Beginning November 1, 2021, the exchange shall provide individuals seeking to enroll in coverage on its website with access to the information a health carrier must provide under RCW 48.43.725 for any qualified health plan the health carrier offers that excludes, under state or federal law, any benefit required or mandated by Title 48 RCW or rules adopted by the commissioner.

(2) The exchange may provide the access required under this section directly on its website, through a link to an external website, or in any other manner that allows consumers to easily access the information. [2020 c 283 § 2.]

43.71.110 Premium assistance and cost-sharing reduction program. (1) Subject to the availability of amounts appropriated for this specific purpose, a premium assistance and cost-sharing reduction program is hereby established to be administered by the exchange.

(2) Premium assistance and cost-sharing reduction amounts must be established by the exchange within parameters established in the omnibus appropriations act.

(3) The exchange must establish, consistent with the omnibus appropriations act:

(a) Procedural requirements for eligibility and continued participation in any premium assistance program or cost-sharing program established under this section, including participant documentation requirements that are necessary to administer the program; and

(b) Procedural requirements for facilitating payments to carriers.

(4) Subject to the availability of amounts appropriated for this specific purpose, an individual is eligible for premium assistance and cost-sharing reductions under this section if the individual:

(a)(i) Is a resident of the state;

(ii) Has income that is up to an income threshold determined through appropriation or by the exchange if no income threshold is determined through appropriation;

(iii) Is enrolled in a silver or gold standard plan offered in the enrollee's county of residence;

(iv) Applies for and accepts all federal advance premium tax credits for which they may be eligible before receiving any state premium assistance;

(v) Applies for and accepts all federal cost-sharing reductions for which they may be eligible before receiving any state cost-sharing reductions;

(vi) Is ineligible for minimum essential coverage through medicare, a federal or state medical assistance program administered by the authority under chapter 74.09 RCW, or for premium assistance under RCW 43.71A.020; and

(vii) Meets any other eligibility criteria established by the exchange; or

(b) Meets alternate eligibility criteria as established in the omnibus appropriations act.

(5)(a) The exchange may disqualify an individual from receiving premium assistance or cost-sharing reductions under this section if the individual:

(i) No longer meets the eligibility criteria in subsection (4) of this section;

(ii) Fails, without good cause, to comply with any procedural or documentation requirements established by the exchange in accordance with subsection (3) of this section;

(iii) Fails, without good cause, to notify the exchange of a change of address in a timely manner;

(iv) Voluntarily withdraws from the program; or

(v) Performs an act, practice, or omission that constitutes fraud, and, as a result, an issuer rescinds the individual's policy for the qualified health plan.

(b) The exchange must develop a process for an individual to appeal a premium assistance or cost-sharing assistance eligibility determination from the exchange.

(6) Prior to establishing or altering premium assistance or cost-sharing reduction amounts, eligibility criteria, or procedural requirements under this section, the exchange must:

(a) Publish notice of the proposal on the exchange's website and provide electronic notice of the proposal to any person who has requested such notice. The notice must include an explanation of the proposal, the date, time, and location of the public hearing required in (b) of this subsection, and instructions and reasonable timelines to submit written comments on the proposal;

(b) Conduct at least one public hearing no sooner than 20 days after publishing the notice required in (a) of this subsection; and

(c) Publish notice of the finalized premium assistance or cost-sharing reduction amounts, eligibility criteria, or procedural requirements on the exchange's website and provide the notice electronically to any person who has requested it. The notice must include a detailed description of the finalized premium assistance or cost-sharing reduction amounts, eligi-

bility criteria, or procedural requirements and a description and explanation of how they vary from the initial proposal.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Advance premium tax credit" means the premium assistance amount determined in accordance with the federal patient protection and affordable care act, P.L. 111-148, as amended by the federal health care and education reconciliation act of 2010, P.L. 111-152, or federal regulations or guidance issued under the affordable care act.

(b) "Income" means the modified adjusted gross income attributed to an individual for purposes of determining his or her eligibility for advance premium tax credits.

(c) "Standard plan" means a standardized health plan under RCW 43.71.095. [2021 c 246 § 1.]

43.71.120 Applications to federal government for waivers and other flexibilities. (1) The exchange, in close consultation with the authority and the office of the insurance commissioner, must explore all opportunities to apply to the secretary of health and human services under 42 U.S.C. Sec. 18052 for a waiver or other available federal flexibilities to:

(a) Receive federal funds for the implementation of the premium assistance or cost-sharing reduction programs established under RCW 43.71.110;

(b) Increase access to qualified health plans; and

(c) Implement or expand other exchange programs that increase affordability of or access to health insurance coverage in Washington state.

(2) If, through the process described in subsection (1) of this section[,], an opportunity to submit a waiver is identified, the exchange, in collaboration with the office of the insurance commissioner and the health care authority, may develop an application under this section to be submitted by the health care authority. If an application is submitted, the health care authority must notify the chairs and ranking minority members of the appropriate policy and fiscal committees of the legislature.

(3) Any application submitted under this section must meet all federal public notice and comment requirements under 42 U.S.C. Sec. 18052(a)(4)(B), including public hearings to ensure a meaningful level of public input. [2021 c 246 § 2.]

43.71.130 State health care affordability account. (1) The state health care affordability account is created in the state treasury. Expenditures from the account may only be used for premium and cost-sharing assistance programs established in RCW 43.71.110.

(2) The following funds must be deposited in the account:

(a) Any grants, donations, or contributions of money collected for purposes of the premium assistance or cost-sharing reduction programs established in RCW 48.43.795;

(b) Any federal funds received by the health benefit exchange pursuant to RCW 43.71.120; and

(c) Any additional funding specifically appropriated to the account. [2021 c 246 § 3.]

43.71.900 Conflict with federal requirements—2011 c 317. If any part of this act is found to be in conflict with

federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2011 c 317 § 9.]

43.71.901 Spiritual care services—2012 c 87. Nothing in chapter 87, Laws of 2012 prohibits the offering of benefits for spiritual care services deductible under section 213(d) of the internal revenue code in health plans inside and outside of the exchange. [2012 c 87 § 14.]

Chapter 43.71A RCW

PACIFIC ISLAND CITIZENS—HEALTH CARE PREMIUM ASSISTANCE

Sections

43.71A.005 Findings—Intent.

43.71A.010 Definitions.

43.71A.020 Eligibility—Costs to be paid—Disqualification—Establishment of procedures.

43.71A.030 Education and outreach program.

43.71A.800 Advisory committee.

43.71A.900 Effective date—2018 c 161.

43.71A.005 Findings—Intent. (1) The legislature finds that:

(a) The compact of free association (COFA) islands, which consists of the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia, has had a long-standing relationship with the United States;

(b) The relationship between the COFA islands and the United States includes economic development and a military presence in the islands;

(c) The region served as a testing ground for atmospheric nuclear weapons between 1946 and 1957, which resulted in past and current inhabitants being exposed to nuclear fallout;

(d) Residents of the COFA islands are allowed to enter the United States without work permits or visas where they live, study, work, serve in the military, and pay state and federal taxes, but are ineligible for federal health programs like medicaid and medicare; and

(e) This ineligibility for federal health programs has exacerbated barriers to health care access for this population, which has led to poorer health outcomes and increased, long-term costs on the health care system as a whole.

(2) The legislature therefore intends to increase access to health care services for COFA islanders residing in Washington by providing premium and cost-sharing assistance for health coverage purchased through the health benefit exchange. [2018 c 161 § 1.]

43.71A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advance premium tax credit" means the premium assistance amount determined in accordance with the affordable care act.

(2) "Affordable care act" means the federal patient protection and affordable care act, P.L. 111-148, as amended by the federal health care and education reconciliation act of 2010, P.L. 111-152, or federal regulations or guidance issued under the affordable care act.

(3) "Authority" means the Washington state health care authority.

(4) "COFA citizen" means a person who is a citizen of:

- (a) The Republic of the Marshall Islands;
- (b) The Federated States of Micronesia; or
- (c) The Republic of Palau.

(5) "Health benefit exchange" or "exchange" means the Washington health benefit exchange established in chapter 43.71 RCW.

(6) "Income" means the modified adjusted gross income attributed to an individual for purposes of determining his or her eligibility for advance premium tax credits.

(7) "In-network provider" means a health care provider or group of providers that directly contracts with an insurer to provide health benefits covered by a health benefit plan offered by an insurer.

(8) "Open enrollment period" means the period during which a person may enroll in a qualified health plan.

(9) "Out-of-pocket costs" means copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits that are covered by the plan and rendered by in-network providers.

(10) "Premium cost" means an individual's premium for a qualified health plan less the amount of the individual's advance premium tax credit.

(11) "Qualified health plan" means a health benefit plan sold through the health benefit exchange.

(12) "Resident" means a person who is domiciled in this state.

(13) "Special enrollment period" means a period during which a person who has not done so during the open enrollment period may enroll in a qualified health plan through the exchange if the person meets specified requirements. [2018 c 161 § 2.]

43.71A.020 Eligibility—Costs to be paid—Disqualification—Establishment of procedures. (1) An individual is eligible for the COFA premium assistance program if the individual:

- (a) Is a resident;
- (b) Is a COFA citizen;
- (c) Enrolls in a silver qualified health plan;
- (d) Has income that is less than one hundred thirty-three percent of the federal poverty level; and
- (e) Is ineligible for a federal or state medical assistance program administered by the authority under chapter 74.09 RCW.

(2) Subject to the availability of amounts appropriated for this specific purpose, the authority shall pay the premium cost for a qualified health plan and the out-of-pocket costs for the coverage provided by the plan for an individual who is eligible for the premium assistance program under subsection (1) of this section.

(3) The authority may disqualify a participant from the program if the participant:

(a) No longer meets the eligibility criteria in subsection (1) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the authority in accordance with subsection (4) of this section;

(c) Fails, without good cause, to notify the authority of a change of address in a timely manner;

(d) Withdraws the participant's application or requests termination of coverage; or

(e) Performs an act, practice, or omission that constitutes fraud, and, as a result, an insurer rescinds the participant's policy for the qualified health plan.

(4) The authority shall establish:

(a) Application, enrollment, and renewal processes for the COFA premium assistance program;

(b) The qualified health plans that are eligible for reimbursement under the program;

(c) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the authority to administer the program; and

(d) Open enrollment periods and special enrollment periods consistent with the enrollment periods for the health benefit exchange.

(5) The first open enrollment period for the COFA premium assistance program must begin no later than November 1, 2018. [2019 c 311 § 2; 2018 c 161 § 3.]

Findings—Intent—2019 c 311: See note following RCW 74.09.719.

43.71A.030 Education and outreach program. The authority, in consultation with the Washington state commission on Asian Pacific American affairs, shall establish an annual comprehensive community education and outreach program to COFA citizens, including contracting with a Washington organization that has multilingual language capacity, and working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the COFA premium assistance and dental care programs. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach program shall provide culturally and linguistically accessible information to facilitate participation in the programs, including but not limited to enrollment procedures, benefit utilization, and patient responsibilities. [2019 c 311 § 3.]

Findings—Intent—2019 c 311: See note following RCW 74.09.719.

43.71A.800 Advisory committee. The authority shall appoint an advisory committee that includes, but is not limited to, insurers and representatives of communities of COFA citizens. The committee shall advise the authority in the development, implementation, and operation of the COFA premium assistance program established in this chapter and the COFA islander dental care program established in RCW 74.09.719. The advisory committee must exist until at least December 31, 2021. Advisory committee members may be reimbursed for transportation and travel expenses related to serving on the committee, as needed. [2019 c 311 § 5; 2018 c 161 § 4.]

Findings—Intent—2019 c 311: See note following RCW 74.09.719.

43.71A.900 Effective date—2018 c 161. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2018]. [2018 c 161 § 6.]

Chapter 43.71B RCW INDIAN HEALTH IMPROVEMENT

Sections

- 43.71B.010 Definitions.
 43.71B.020 Indian health advisory council—Duties—Reinvestment committee—Role of health care authority.
 43.71B.030 Indian health improvement advisory plan.
 43.71B.040 Indian health improvement reinvestment account.
 43.71B.900 Short title.
 43.71B.901 Findings—Intent—2019 c 282.

43.71B.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory council" means the governor's Indian health advisory council established in RCW 43.71B.020.

(2) "Advisory plan" means the plan described in RCW 43.71B.030.

(3) "American Indian" or "Alaska Native" means any individual who is: (a) A member of a federally recognized tribe; or (b) eligible for the Indian health service.

(4) "Authority" means the health care authority.

(5) "Board" means the northwest Portland area Indian health board, an Oregon nonprofit corporation wholly controlled by the tribes in the states of Idaho, Oregon, and Washington.

(6) "Commission" means the American Indian health commission for Washington state, a Washington nonprofit corporation wholly controlled by the tribes and urban Indian organizations in the state.

(7) "Community health aide" means a tribal community health provider certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l, who can perform a wide range of duties within the provider's scope of certified practice in health programs of a tribe, tribal organization, Indian health service facility, or urban Indian organization to improve access to culturally appropriate, quality care for American Indians and Alaska Natives and their families and communities, including but not limited to community health aides, community health practitioners, behavioral health aides, behavioral health practitioners, dental health aides, and dental health aide therapists.

(8) "Community health aide program" means a community health aide certification board for the state consistent with 25 U.S.C. Sec. 1616l and the training programs and certification requirements established thereunder.

(9) "Fee-for-service" means the state's medicaid program for which payments are made under the state plan, without a managed care entity, in accordance with the fee-for-service payment methodology.

(10) "Historical trauma" means situations where a community experienced traumatic events, the events generated high levels of collective distress, and the events were perpetuated by outsiders with a destructive or genocidal intent.

(11) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in 25 U.S.C. Sec. 1603.

(12) "Indian health service" means the federal agency within the United States department of health and human services.

(13) "New state savings" means the savings to the state general fund that are achieved as a result of the centers for medicare and medicaid services state health official letter 16-002 and related guidance, calculated as the difference between (a) medicaid payments received from the centers for medicare and medicaid services based on the one hundred percent federal medical assistance percentage; and (b) medicaid payments received from the centers for medicare and medicaid services based on the federal medical assistance percentage that would apply in the absence of state health official letter 16-002 and related guidance.

(14) "Reinvestment account" means the Indian health improvement reinvestment account created in RCW 43.71B.040.

(15) "Reinvestment committee" means the Indian health improvement reinvestment committee established in RCW 43.71B.020(4).

(16) "Tribal organization" has the meaning set forth in 25 U.S.C. Sec. 5304.

(17) "Tribally operated facility" means a health care facility operated by one or more tribes or tribal organizations to provide specialty services, including but not limited to evaluation and treatment services, secure detox services, inpatient psychiatric services, nursing home services, and residential substance use disorder services.

(18) "Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native claims settlement act (43 U.S.C. Sec. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(19) "Urban Indian" means any individual who resides in an urban center and is: (a) A member of a tribe terminated since 1940 and those tribes recognized now or in the future by the state in which they reside, or who is a descendant, in the first or second degree, of any such member; (b) an Eskimo or Aleut or other Alaska Native; (c) considered by the secretary of the interior to be an Indian for any purpose; or (d) considered by the United States secretary of health and human services to be an Indian for purposes of eligibility for Indian health services, including as a California Indian, Eskimo, Aleut, or other Alaska Native.

(20) "Urban Indian organization" means an urban Indian organization, as defined by 25 U.S.C. Sec. 1603. [2020 c 256 § 102; 2019 c 282 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

43.71B.020 Indian health advisory council—Duties—Reinvestment committee—Role of health care authority. (1) The governor's Indian health advisory council is established, consisting of:

(a) The following voting members:

(i) One representative from each tribe, designated by the tribal council, who is either the tribe's commission delegate or an individual specifically designated for this role, or his or her designee;

(ii) The chief executive officer of each urban Indian organization, or the urban Indian organization's commission delegate if applicable, or his or her designee;

(iii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(iv) One member from each of the two largest caucuses of the senate, appointed by the president of the senate; and

(v) One member representing the governor's office; and

(b) The following nonvoting members:

(i) One member of the executive leadership team from each of the following state agencies: The authority; the department of children, youth, and families; the department of commerce; the department of corrections; the department of health; the department of social and health services; the office of the insurance commissioner; the office of the superintendent of public instruction; and the Washington health benefit exchange;

(ii) The chief operating officer of each Indian health service area office and service unit, or his or her designee;

(iii) The executive director of the commission, or his or her designee; and

(iv) The executive director of the board, or his or her designee.

(2) The advisory council shall meet at least three times per year when the legislature is not in session, in a forum that offers both in-person and remote participation where everyone can hear and be heard.

(3) The advisory council has the responsibility to:

(a) Adopt the biennial Indian health improvement advisory plan prepared and amended by the reinvestment committee as described in RCW 43.71B.030 no later than November 1st of each odd-numbered year;

(b) Address current or proposed policies or actions that have tribal implications and are not able to be resolved or addressed at the agency level;

(c) Facilitate better understanding among advisory council members and their support staff of the Indian health system, American Indian and Alaska Native health disparities and historical trauma, and tribal sovereignty and self-governance;

(d) Provide oversight of contracting and performance of service coordination organizations or service contracting entities as defined in RCW 70.320.010 in order to address their impacts on services to American Indians and Alaska Natives and relationships with Indian health care providers; and

(e) Provide oversight of the Indian health improvement reinvestment account created in RCW 43.71B.040, ensuring that amounts expended from the reinvestment account are consistent with the advisory plan adopted under RCW 43.71B.030.

(4) The reinvestment committee of the advisory council is established, consisting of the following members of the advisory council:

(a) With voting rights on the reinvestment committee, every advisory council member who represents a tribe or an urban Indian organization; and

(b) With nonvoting rights on the reinvestment committee, every advisory council member who represents a state agency, the Indian health service area office or a service unit, the commission, and the board.

(5) The advisory council may appoint technical advisory committees, which may include members of the advisory council, as needed to address specific issues and concerns.

(6) The authority, in conjunction with the represented state agencies on the advisory council, shall supply such information and assistance as are deemed necessary for the advisory council and its committees to carry out its duties under this section.

(7) The authority shall provide (a) administrative and clerical assistance to the advisory council and its committees and (b) technical assistance with the assistance of the commission.

(8) The advisory council meetings, reports and recommendations, and other forms of collaboration described in this chapter support the tribal consultation process but are not a substitute for the requirements for state agencies to conduct consultation or maintain government-to-government relationships with tribes under federal and state law. [2019 c 282 § 3.]

43.71B.030 Indian health improvement advisory plan. (1) With assistance from the authority, the commission, and other member entities of the advisory council, the reinvestment committee of the advisory council shall prepare and amend from time to time a biennial Indian health improvement advisory plan to:

(a) Develop programs directed at raising the health status of American Indians and Alaska Natives and reducing the health inequities that these communities experience; or

(b) Help the state, the Indian health service, tribes, and urban Indian organizations, statewide or in regions, improve delivery systems for American Indians and Alaska Natives by increasing access to care, strengthening continuity of care, and improving population health through investments in capacity and infrastructure.

(2) The advisory plan shall include the following:

(a) An assessment of Indian health and Indian health care in the state;

(b) Specific recommendations for programs, projects, or activities, along with recommended reinvestment account expenditure amounts and priorities for expenditures, for the next two state fiscal bienniums. The programs, projects, and activities may include but are not limited to:

(i) The creation and expansion of facilities operated by Indian health services, tribes, and urban Indian health programs providing evaluation, treatment, and recovery services for opioid use disorder, other substance use disorders, mental illness, or specialty care;

(ii) Improvement in access to, and utilization of, culturally appropriate primary care, mental health, and substance use disorder and recovery services;

(iii) The elimination of barriers to, and maximization of, federal funding of substance use disorder and mental health

services under the programs established in chapter 74.09 RCW;

(iv) Increased availability of, and identification of barriers to, crisis and related services established in chapter 71.05 RCW, with recommendations to increase access including, but not limited to, involuntary commitment orders, designated crisis responders, and discharge planning;

(v) Increased access to quality, culturally appropriate, trauma-informed specialty services, including adult and pediatric psychiatric services, medication consultation, and addiction or geriatric psychiatry;

(vi) A third-party administrative entity to provide, arrange, and make payment for services for American Indians and Alaska Natives;

(vii) Expansion of suicide prevention services, including culture-based programming, to instill and fortify cultural practices as a protective factor;

(viii) Expansion of traditional healing services;

(ix) Development of a community health aide program, including a community health aide certification board for the state consistent with 25 U.S.C. Sec. 1616l, and support for community health aide services;

(x) Health information technology capability within tribes and urban Indian organizations to assure the technological capacity to: (A) Produce sound evidence for Indian health care provider best practices; (B) effectively coordinate care between Indian health care providers and non-Indian health care providers; (C) provide interoperability with state claims and reportable data systems, such as for immunizations and reportable conditions; and (D) support patient-centered medical home models, including sufficient resources to purchase and implement certified electronic health record systems, such as hardware, software, training, and staffing;

(xi) Support for care coordination by tribes and other Indian health care providers to mitigate barriers to access to care for American Indians and Alaska Natives, with duties to include without limitation: (A) Follow-up of referred appointments; (B) routine follow-up care for management of chronic disease; (C) transportation; and (D) increasing patient understanding of provider instructions;

(xii) Expanded support for tribal and urban Indian epidemiology centers to create a system of epidemiological analysis that meets the needs of the state's American Indian and Alaska Native population; and

(xiii) Other health care services and public health services that contribute to reducing health inequities for American Indians and Alaska Natives in the state and increasing access to quality, culturally appropriate health care for American Indians and Alaska Natives in the state; and

(c) Review of how programs, projects, or activities that have received investments from the reinvestment account have or have not achieved the objectives and why. [2019 c 282 § 4.]

43.71B.040 Indian health improvement reinvestment account. (1) The Indian health improvement reinvestment account is created in the custody of the state treasurer. All receipts from new state savings as defined in RCW 43.71B.010 and any other moneys appropriated to the account must be deposited into the account. Expenditures from the account may be used only for projects, programs,

and activities authorized by RCW 43.71B.030. Only the director of the authority or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Beginning November 1, 2019, the new state savings as defined in RCW 43.71B.010, less the state's administrative costs as agreed upon by the state and the reinvestment committee, shall be deposited into the reinvestment account. With advice from the advisory council, the authority shall develop a report and methodology to identify and track the new state savings. Each fall, to assure alignment with existing budget processes, the methodology selected shall involve the same forecasting procedures that inform the authority's medical assistance and behavioral health appropriations to prospectively identify new state savings each fiscal year, as defined in RCW 43.71B.010.

(3) The authority shall pursue new state savings for Medicaid managed care premiums on an actuarial basis and in consultation with tribes. [2019 c 282 § 5.]

43.71B.900 Short title. This chapter may be known and cited as the "Washington Indian health improvement act." [2019 c 282 § 6.]

43.71B.901 Findings—Intent—2019 c 282. (1) The legislature finds that:

(a) As set forth in 25 U.S.C. Sec. 1602, it is the policy of the nation, in fulfillment of its special trust responsibilities and legal obligations to American Indians and Alaska Natives, to:

(i) Ensure the highest possible health status for American Indians and Alaska Natives and to provide all resources necessary to effect that policy;

(ii) Raise the health status of American Indians and Alaska Natives to at least the levels set forth in the goals contained within the healthy people 2020 initiative or successor objectives; and

(iii) Ensure tribal self-determination and maximum participation by American Indians and Alaska Natives in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of tribes and American Indian and Alaska Native communities;

(b) According to the northwest tribal epidemiology center and the department of health, American Indians and Alaska Natives in the state experience some of the greatest health disparities compared to other groups, including:

(i) Disproportionately high rates of premature mortality due to chronic diseases and unintentional injury;

(ii) Disproportionately high rates of asthma, coronary heart disease, hypertension, diabetes, prediabetes, obesity, dental caries, poor mental health, youth depressive feelings, cigarette smoking and vaping, and cannabis use;

(iii) A drug overdose death rate in 2016 in this state that is three times higher than the national American Indian and Alaska Native rate and has increased thirty-six percent since 2012 and almost three hundred percent since 2000 in contrast to a relatively stable rate for the state overall population. Over seventy-two percent of these overdose deaths involved an opioid;

(iv) A suicide mortality rate in this state that is more than one and four-fifths times higher than the rate for non-American Indians and Alaska Natives. Since 2001, the suicide mortality rate for American Indians and Alaska Natives in this state has increased by fifty-eight percent which is more than three times the rate of increase among non-American Indians and Alaska Natives. Nationally, the highest suicide rates among American Indians and Alaska Natives are for adolescents and young adults, while rates among non-Hispanic whites are highest in older age groups, suggesting that different risk factors might contribute to suicide in these groups; and

(v) A rate of exposure to significant adverse childhood experiences between 2009 and 2011 that is nearly twice the rate of non-Hispanic whites;

(c) These health disparities are a direct result of both historical trauma, leading to adverse childhood experiences across multiple generations, and inadequate levels of federal funding to the Indian health service;

(d) Under a 2016 update in payment policy from the centers for medicare and medicaid services, the state has the opportunity to shift more of the cost of care for American Indian and Alaska Native medicaid enrollees from the state general fund to the federal government if all of the federal requirements are met;

(e) Because the federal requirements to achieve this cost shift and obtain the new federal funds place significant administrative burdens on Indian health service and tribal health facilities, the state has no way to shift these costs of care to the federal government unless the state provides incentives for tribes to take on these administrative burdens; and

(f) The federal government's intent for this update in payment policy is to help states, the Indian health service, and tribes to improve delivery systems for American Indians and Alaska Natives by increasing access to care, strengthening continuity of care, and improving population health.

(2) The legislature, therefore, intends to:

(a) Establish that it is the policy of this state and the intent of this chapter, in fulfillment of the state's unique relationships and shared respect between sovereign governments, to:

(i) Recognize the United States' special trust responsibility to provide quality health care and allied health services to American Indians and Alaska Natives, including those individuals who are residents of this state; and

(ii) Implement the national policies of Indian self-determination with the goal of reducing health inequities for American Indians and Alaska Natives;

(b) Establish the governor's Indian health advisory council to:

(i) Adopt a biennial Indian health improvement advisory plan, developed by the reinvestment committee;

(ii) Address issues with tribal implications that are not able to be resolved at the agency level;

(iii) Provide oversight of the Indian health improvement reinvestment account; and

(iv) Draft recommended legislation to address Indian health improvement needs including, but not limited to, crisis coordination between Indian health care providers and the state's behavioral health system;

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(c) Establish the Indian health improvement reinvestment account in order to provide incentives for tribes to assume the administrative burdens created by the federal requirements for the state to shift health care costs to the federal government;

(d) Appropriate and deposit into the reinvestment account all of the new state savings, subject to federal appropriations and less agreed upon administrative costs to maintain fiscal neutrality to the state general fund;

(e) Require the funds in the reinvestment account to be spent only on costs for projects, programs, or activities identified in the advisory plan;

(f) Address the ongoing suicide and addiction crisis among American Indians and Alaska Natives by:

(i) Including Indian health care providers among entities eligible to receive available resources as defined in RCW 71.24.025 for the delivery of behavioral health services to American Indians and Alaska Natives;

(ii) Strengthening the state's behavioral health system crisis coordination with tribes and Indian health care providers by removing barriers to the federal trust responsibility to provide for American Indians and Alaska Natives; and

(g) Recognize the sovereign authority of tribal governments to act as public health authorities in providing for the health and safety of their community members including those individuals who may be experiencing a behavioral health crisis. [2020 c 256 § 101; 2019 c 282 § 1.]

Chapter 43.71C RCW PRESCRIPTION DRUG COSTS

Sections

43.71C.010	Definitions.
43.71C.020	Health carriers—Cost and utilization data reporting.
43.71C.030	Pharmacy benefit managers—Data reporting.
43.71C.040	Pharmacy benefit managers—Compliance.
43.71C.050	Manufacturers—Data reporting.
43.71C.060	Manufacturers—Notice of new drug applications.
43.71C.070	Manufacturers—Notice of price increases.
43.71C.080	Pharmacy services administrative organizations—Data reporting.
43.71C.090	Enforcement.
43.71C.100	Annual report—Data confidentiality.
43.71C.110	Rule making.
43.71C.800	Joint state strategies—Development and implementation recommendations.
43.71C.900	Findings—2019 c 334.

43.71C.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the health care authority.

(2) "Covered drug" means any prescription drug that:

(a) A covered manufacturer intends to introduce to the market at a wholesale acquisition cost of ten thousand dollars or more for a course of treatment lasting less than one month or a thirty-day supply, whichever period is longer; or

(b) Is currently on the market, is manufactured by a covered manufacturer, and has a wholesale acquisition cost of more than one hundred dollars for a course of treatment lasting less than one month or a thirty-day supply, and, taking into account only price increases that take effect after July 28, 2019, the manufacturer increases the wholesale acquisition cost at least:

(i) Twenty percent, including the proposed increase and the cumulative increase over one calendar year prior to the date of the proposed increase; or

(ii) Fifty percent, including the proposed increase and the cumulative increase over three calendar years prior to the date of the proposed increase.

(3) "Covered manufacturer" means a person, corporation, or other entity engaged in the manufacture of prescription drugs sold in or into Washington state. "Covered manufacturer" does not include a private label distributor or retail pharmacy that sells a drug under the retail pharmacy's store, or a prescription drug repackager.

(4) "Health care provider," "health plan," "health carrier," and "carrier" mean the same as in RCW 48.43.005.

(5) "Pharmacy benefit manager" means the same as in *RCW 19.340.010.

(6) "Pharmacy services administrative organization" means an entity that contracts with a pharmacy to act as the pharmacy's agent with respect to matters involving a pharmacy benefit manager, third-party payor, or other entities, including negotiating, executing, or administering contracts with the pharmacy benefit manager, third-party payor, or other entities and provides administrative services to pharmacies.

(7) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW, including generic, brand name, specialty drugs, and biological products that are prescribed for outpatient use and distributed in a retail setting.

(8) "Qualifying price increase" means a price increase described in subsection (2)(b) of this section.

(9) "Wholesale acquisition cost" or "price" means, with respect to a prescription drug, the manufacturer's list price for the drug to wholesalers or direct purchasers in the United States, excluding any discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of prescription drug pricing. [2019 c 334 § 2.]

*Reviser's note: RCW 19.340.010 was repealed by 2020 c 240 § 19, effective January 1, 2022.

43.71C.020 Health carriers—Cost and utilization data reporting. Beginning October 1, 2019, and on a yearly basis thereafter, a health carrier must submit to the authority the following prescription drug cost and utilization data for the previous calendar year for each health plan it offers in the state:

(1) The twenty-five prescription drugs most frequently prescribed by health care providers participating in the plan's network;

(2) The twenty-five costliest prescription drugs expressed as a percentage of total plan prescription drug spending, and the plan's total spending for each of these prescription drugs;

(3) The twenty-five drugs with the highest year-over-year increase in wholesale acquisition cost, excluding drugs made available for the first time that plan year, and the percentages of the increases for each of these prescription drugs;

(4) The portion of the premium that is attributable to each of the following categories of covered prescription drugs, after accounting for all rebates and discounts:

(a) Brand name drugs;

(b) Generic drugs; and

(c) Specialty drugs;

(5) The year-over-year increase, calculated on a per member, per month basis and expressed as a percentage, in the total annual cost of each category of covered drugs listed in subsection (4) of this section, after accounting for all rebates and discounts;

(6) A comparison, calculated on a per member, per month basis, of the year-over-year increase in the cost of covered drugs to the year-over-year increase in the costs of other contributors to premiums, after accounting for all rebates and discounts;

(7) The name of each covered specialty drug; and

(8) The names of the twenty-five most frequently prescribed drugs for which the health plan received rebates from pharmaceutical manufacturers. [2019 c 334 § 3.]

43.71C.030 Pharmacy benefit managers—Data reporting. (1) By March 1st of each year, a pharmacy benefit manager must submit to the authority the following data from the previous calendar year:

(a) All discounts, including the total dollar amount and percentage discount, and all rebates received from a manufacturer for each drug on the pharmacy benefit manager's formularies;

(b) The total dollar amount of all discounts and rebates that are retained by the pharmacy benefit manager for each drug on the pharmacy benefit manager's formularies;

(c) Actual total reimbursement amounts for each drug the pharmacy benefit manager pays retail pharmacies after all direct and indirect administrative and other fees that have been retrospectively charged to the pharmacies are applied;

(d) The negotiated price health plans pay the pharmacy benefit manager for each drug on the pharmacy benefit manager's formularies;

(e) The amount, terms, and conditions relating to copayments, reimbursement options, and other payments or fees associated with a prescription drug benefit plan;

(f) Disclosure of any ownership interest the pharmacy benefit manager has in a pharmacy or health plan with which it conducts business; and

(g) The results of any appeal filed pursuant to *RCW 19.340.100(3).

(2) The information collected pursuant to this section is not subject to public disclosure under chapter 42.56 RCW.

(3) The authority may examine or audit the financial records of a pharmacy benefit manager for purposes of ensuring the information submitted under this section is accurate. Information the authority acquires in an examination of financial records pursuant to this subsection is proprietary and confidential. [2019 c 334 § 4.]

*Reviser's note: RCW 19.340.100 was recodified as RCW 48.200.280 pursuant to 2020 c 240 § 18, effective January 1, 2022.

43.71C.040 Pharmacy benefit managers—Compliance. (1) No later than March 1st of each calendar year, each pharmacy benefit manager must file with the authority, in the form and detail as required by the authority, a report for the preceding calendar year stating that the pharmacy benefit manager is in compliance with this chapter.

(2) A pharmacy benefit manager may not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading.

(3) An employer-sponsored self-funded health plan or a Taft-Hartley trust health plan may voluntarily provide the data described in subsection (1) of this section. [2019 c 334 § 5.]

43.71C.050 Manufacturers—Data reporting. (1) Beginning October 1, 2019, a covered manufacturer must submit to the authority the following data for each covered drug:

(a) A description of the specific financial and nonfinancial factors used to make the decision to set or increase the wholesale acquisition cost of the drug. In the event of a price increase, a covered manufacturer must also submit the amount of the increase and an explanation of how these factors explain the increase in the wholesale acquisition cost of the drug;

(b) The patent expiration date of the drug if it is under patent;

(c) Whether the drug is a multiple source drug, an innovator multiple source drug, a noninnovator multiple source drug, or a single source drug;

(d) The itemized cost for production and sales, including the annual manufacturing costs, annual marketing and advertising costs, total research and development costs, total costs of clinical trials and regulation, and total cost for acquisition of the drug; and

(e) The total financial assistance given by the manufacturer through assistance programs, rebates, and coupons.

(2) For all qualifying price increases of existing drugs, a manufacturer must submit the year the drug was introduced to market and the wholesale acquisition cost of the drug at the time of introduction.

(3) If a manufacturer increases the price of an existing drug it has manufactured for the previous five years or more, it must submit a schedule of wholesale acquisition cost increases for the drug for the previous five years.

(4) If a manufacturer acquired the drug within the previous five years, it must submit:

(a) The wholesale acquisition cost of the drug at the time of acquisition and in the calendar year prior to acquisition; and

(b) The name of the company from which the drug was acquired, the date acquired, and the purchase price.

(5) Except as provided in subsection (6) of this section, a covered manufacturer must submit the information required by this section:

(a) At least sixty days in advance of a qualifying price increase for a covered drug; and

(b) Within thirty days of release of a new covered drug to the market.

(6) For any drug approved under section 505(j) of the federal food, drug, and cosmetic act, as it existed on July 28, 2019, or a biosimilar approved under section 351(k) of the federal public health service act, as it existed on July 28, 2019, if submitting data in accordance with subsection (5)(a) of this section is not possible sixty days before the price

increase, that submission must be made as soon as known but not later than the date of the price increase.

(7) The information submitted pursuant to this section is not subject to public disclosure under chapter 42.56 RCW. [2019 c 334 § 6.]

43.71C.060 Manufacturers—Notice of new drug applications. (1) Beginning October 1, 2019, a manufacturer must submit written notice, in a form and manner specified by the authority, informing the authority that the manufacturer has filed with the FDA:

(a) A new drug application or biologics license application for a pipeline drug; or

(b) A biologics license application for a biological product.

(2) The notice must be filed within sixty days of the manufacturer receiving the applicable FDA approval date.

(3) Upon receipt of the notice, the authority may request from the manufacturer the following information if it believes the drug will have a significant impact on state expenditures:

(a) The primary disease, condition, or therapeutic area studied in connection with the new drug, and whether the drug is therapeutically indicated for such disease, condition, or therapeutic area;

(b) Each route of administration studied for the drug;

(c) Clinical trial comparators for the drug;

(d) The date at which the FDA must complete its review of the drug application pursuant to the federal prescription drug user fee act of 1992 (106 Stat. 4491; P.L. 102-571);

(e) Whether the FDA has designated the drug an orphan drug, a fast track product, or a breakthrough therapy; and

(f) Whether the FDA has designated the drug for accelerated approval, priority review, or if the drug contains a new molecular entity.

(4) A manufacturer may limit the information reported pursuant to this section to that which is otherwise in the public domain or publicly reported.

(5) The information collected pursuant to this section is not subject to public disclosure under chapter 42.56 RCW. [2019 c 334 § 7.]

43.71C.070 Manufacturers—Notice of price increases. (1) Beginning October 1, 2019, a manufacturer of a covered drug must notify the authority of a qualifying price increase in writing at least sixty days prior to the planned effective date of the increase. The notice must include:

(a) The date of the increase, the current wholesale acquisition cost of the prescription drug, and the dollar amount of the future increase in the wholesale acquisition cost of the prescription drug; and

(b) A statement regarding whether a change or improvement in the drug necessitates the price increase. If so, the manufacturer shall describe the change or improvement.

(2) For any drug approved under section 505(j) of the federal food, drug, and cosmetic act, as it existed on July 28, 2019, or a biosimilar approved under section 351(k) of the federal public health service act, as it existed on July 28, 2019, if notification is not possible sixty days before the price increase, that submission must be made as soon as known but not later than the date of the price increase.

(3) The information submitted pursuant to this section is not subject to public disclosure under chapter 42.56 RCW.

(4) By December 1, 2020, the authority must provide recommendations on how to provide advance notice of price increases to purchasers consistent with state and federal law. [2019 c 334 § 8.]

43.71C.080 Pharmacy services administrative organizations—Data reporting. (1) Beginning October 1, 2019, and on a yearly basis thereafter, a pharmacy services administrative organization representing a pharmacy or pharmacy chain in the state must submit to the authority the following data from the previous calendar year:

(a) The negotiated reimbursement rate of the twenty-five prescription drugs with the highest reimbursement rate;

(b) The twenty-five prescription drugs with the largest year-to-year change in reimbursement rate, expressed as a percentage and dollar amount; and

(c) The schedule of fees charged to pharmacies for the services provided by the pharmacy services administrative organization.

(2) Any pharmacy services administrative organization whose revenue is generated from flat service fees not connected to drug prices or volume, and paid by the pharmacy, is exempt from reporting. [2019 c 334 § 9.]

43.71C.090 Enforcement. The authority may assess a fine of up to one thousand dollars per day for failure to comply with the requirements of RCW 43.71C.020 through 43.71C.080. The assessment of a fine under this section is subject to review under the administrative procedure act, chapter 34.05 RCW. Fines collected under this section must be deposited in the medicaid fraud penalty account created in RCW 74.09.215. [2019 c 334 § 11.]

43.71C.100 Annual report—Data confidentiality. (1) The authority shall compile and analyze the data submitted by health carriers, pharmacy benefit managers, manufacturers, and pharmacy services administrative organizations pursuant to this chapter and prepare an annual report for the public and the legislature synthesizing the data to demonstrate the overall impact that drug costs, rebates, and other discounts have on health care premiums.

(2) The data in the report must be aggregated and must not reveal information specific to individual health carriers, pharmacy benefit managers, pharmacy services administrative organizations, individual prescription drugs, individual classes of prescription drugs, individual manufacturers, or discount amounts paid in connection with individual prescription drugs.

(3) Beginning January 1, 2021, and by each January 1st thereafter, the authority must publish the report on its web site.

(4) Except for the report, and as provided in subsection (5) of this section, the authority shall keep confidential all data submitted pursuant to RCW 43.71C.020 through 43.71C.080.

(5) For purposes of public policy, upon request of a legislator, the authority must provide all data provided pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority. Any information provided pursuant to this subsection must be kept confidential within the legislature and may not be publicly released.

(6) For the purpose of reviewing drug prices and conducting affordability reviews, the prescription drug affordability board, as established in chapter 70.405 RCW, and the health care cost transparency board, established in chapter 70.390 RCW, may access all data collected pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.

(7) The data collected pursuant to this chapter is not subject to public disclosure under chapter 42.56 RCW. Any information provided pursuant to this section must be kept confidential and may not be publicly released. Recipients of data under subsection (6) of this section shall:

(a) Follow all rules adopted by the authority regarding appropriate data use and protection; and

(b) Acknowledge that the recipient is responsible for any liability arising from misuse of the data and that the recipient does not have any conflicts under the ethics in public service act that would prevent the recipient from accessing or using the data. [2022 c 153 § 11; 2019 c 334 § 10.]

43.71C.110 Rule making. The authority may adopt any rules necessary to implement the requirements of this chapter. [2019 c 334 § 13.]

43.71C.800 Joint state strategies—Development and implementation recommendations. The authority must contact the California office of statewide health planning and development and the Oregon department of consumer and business services to develop strategies to reduce prescription drug costs and increase prescription drug cost transparency. The authority must make recommendations to the legislature for implementing joint state strategies, which may include a joint purchasing agreement, by January 1, 2020. [2019 c 334 § 12.]

43.71C.900 Findings—2019 c 334. The legislature finds that the state of Washington has substantial public interest in the following:

(1) The price and cost of prescription drugs. Washington state is a major purchaser through the department of corrections, the health care authority, and other entities acting on behalf of a state purchaser;

(2) Enacting this chapter to provide notice and disclosure of information relating to the cost and pricing of prescription drugs in order to provide accountability to the state for prescription drug pricing;

(3) Rising drug costs and consumer ability to access prescription drugs; and

(4) Containing prescription drug costs. It is essential to understand the drivers and impacts of these costs, as transparency is typically the first step toward cost containment and greater consumer access to needed prescription drugs. [2019 c 334 § 1.]

Chapter 43.72 RCW

HEALTH SYSTEM REFORM—HEALTH SERVICES COMMISSION

Sections

43.72.011	Definitions.
43.72.090	Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum.
43.72.180	Legislative approval—Uniform benefits package and medical risk adjustment mechanisms.
43.72.300	Managed competition—Findings and intent.
43.72.310	Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity—Fees.
43.72.860	Managed care pilot projects.
43.72.902	Public health services account.
43.72.910	Short title—1993 c 492.
43.72.912	Savings—1993 c 492.
43.72.914	Reservation of legislative power—1993 c 492.
43.72.915	Effective dates—1993 c 492.
43.72.916	Effective date—1993 c 494.

43.72.011 Definitions. As used in this chapter, "health carrier," "health care provider," "provider," "health plan," and "health care facility" have the same meaning as provided in RCW 48.43.005. [1997 c 274 § 5.]

Additional notes found at www.leg.wa.gov

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. (1) On and after December 31, 1995, no person or entity in this state shall provide the uniform benefits package and supplemental benefits as defined in *RCW 43.72.010 without being certified as a certified health plan by the insurance commissioner.

(2) On and after December 31, 1995, no certified health plan may offer less than the uniform benefits package to residents of this state and no registered employer health plan may provide less than the uniform benefits package to its employees and their dependents.

(3) The health services commission may authorize renewal or continuation until December 31, 1996, of health care service contracts, disability group insurance, or health maintenance policies in effect on December 31, 1995. [1995 c 2 § 1; 1993 c 492 § 427.]

Reviser's note: *(1) RCW 43.72.010 was repealed by 1995 c 265 § 27, effective July 1, 1995.

(2) RCW 43.72.090 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 1. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Certification: Chapter 48.43 RCW.

Additional notes found at www.leg.wa.gov

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. [1993 c 492 § 427.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Reviser's note: RCW 43.72.090 was also amended by 1995 c 2 § 1 without cognizance of its repeal by 1995 c 265 § 27. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. The legislature may disapprove of the uniform benefits package developed under *RCW 43.72.130 and medical risk adjustment mechanisms developed under **RCW 43.72.040(7) by an act of law at any time prior to the last day of the following regular legislative session. If such disapproval action is taken, the commission shall resubmit a modified package to the legislature within fifteen days of the disapproval. If the legislature does not disapprove or modify the package by an act of law by the end of that regular session, the package is deemed approved. [1995 c 2 § 2; 1993 c 492 § 454.]

Reviser's note: *(1) RCW 43.72.130 was repealed by 1995 c 265 § 27, effective July 1, 1995.

** (2) RCW 43.72.040 was repealed by 1995 c 265 § 27, effective July 1, 1995.

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(3) RCW 43.72.180 was also repealed by 1995 c 265 § 27 without cognizance of its amendment by 1995 c 2 § 2. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

Additional notes found at www.leg.wa.gov

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. [1993 c 492 § 454.] Repealed by 1995 c 265 § 27, effective July 1, 1995.

Reviser's note: RCW 43.72.180 was also amended by 1995 c 2 § 2 without cognizance of its repeal by 1995 c 265 § 27. For rule of construction concerning sections amended and repealed in the same legislative session, see RCW 1.12.025.

43.72.300 Managed competition—Findings and intent. (1) The legislature recognizes that competition among health care providers, facilities, payers, and purchasers will yield the best allocation of health care resources, the lowest prices for health care services, and the highest quality of health care when there exists a large number of buyers and sellers, easily comparable health plans and services, minimal barriers to entry and exit into the health care market, and adequate information for buyers and sellers to base purchasing and production decisions. However, the legislature finds that purchasers of health care services and health care coverage do not have adequate information upon which to base purchasing decisions; that health care facilities and providers of health care services face legal and market disincentives to develop economies of scale or to provide the most cost-efficient and efficacious service; that health insurers, contractors, and health maintenance organizations face market disincentives in providing health care coverage to those Washington residents with the most need for health care coverage; and that potential competitors in the provision of health care coverage bear unequal burdens in entering the market for health care coverage.

(2) The legislature therefore intends to exempt from state anti-trust laws, and to provide immunity from federal anti-trust laws through the state action doctrine for activities approved under this chapter that might otherwise be constrained by such laws and intends to displace competition in the health care market: To contain the aggregate cost of health care services; to promote the development of comprehensive, integrated, and cost-effective health care delivery systems through cooperative activities among health care providers and facilities; to promote comparability of health care coverage; to improve the cost-effectiveness in providing health care coverage relative to health promotion, disease prevention, and the amelioration or cure of illness; to assure universal access to a publicly determined, uniform package of health care benefits; and to create reasonable equity in the distribution of funds, treatment, and medical risk among purchasers of health care coverage, payers of health care services, providers of health care services, health care facilities, and Washington residents. To these ends, any lawful action taken pursuant to chapter 492, Laws of 1993 by any person or entity created or regulated by chapter 492, Laws of 1993 are declared to be taken pursuant to state statute and in furtherance of the public purposes of the state of Washington.

(3) The legislature does not intend and unless explicitly permitted in accordance with RCW 43.72.310 or under rules adopted pursuant to chapter 492, Laws of 1993, does not

authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal anti-trust laws including but not limited to conspiracies or agreements:

(a) Among competing health care providers not to grant discounts, not to provide services, or to fix the price of their services;

(b) Among health carriers as to the price or level of reimbursement for health care services;

(c) Among health carriers to boycott a group or class of health care service providers;

(d) Among purchasers of health plan coverage to boycott a particular plan or class of plans;

(e) Among health carriers to divide the market for health care coverage; or

(f) Among health carriers and purchasers to attract or discourage enrollment of any Washington resident or groups of residents in a health plan based upon the perceived or actual risk of loss in including such resident or group of residents in a health plan or purchasing group. [1997 c 274 § 6; 1993 c 492 § 447.]

Additional notes found at www.leg.wa.gov

43.72.310 Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity—Fees.

(1) A health carrier, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or health plans may request, in writing, that the department of health obtain an informal opinion from the attorney general as to whether particular conduct is authorized by chapter 492, Laws of 1993. Trade secret or proprietary information contained in a request for informal opinion shall be identified as such and shall not be disclosed other than to an authorized employee of the department of health or attorney general without the consent of the party making the request, except that information in summary or aggregate form and market share data may be contained in the informal opinion issued by the attorney general. The attorney general shall issue such opinion within thirty days of receipt of a written request for an opinion or within thirty days of receipt of any additional information requested by the attorney general necessary for rendering an opinion unless extended by the attorney general for good cause shown. If the attorney general concludes that such conduct is not authorized by chapter 492, Laws of 1993, the person or organization making the request may petition the department of health for review and approval of such conduct in accordance with subsection (3) of this section.

(2) After obtaining the written opinion of the attorney general and consistent with such opinion, the department of health:

(a) May authorize conduct by a health carrier, health care facility, health care provider, or any other person that could tend to lessen competition in the relevant market upon a strong showing that the conduct is likely to achieve the policy goals of chapter 492, Laws of 1993 and a more competitive alternative is impractical;

(b) Shall adopt rules governing conduct among providers, health care facilities, and health carriers including rules governing provider and facility contracts with health carriers, rules governing the use of "most favored nation" clauses and

exclusive dealing clauses in such contracts, and rules providing that health carriers in rural areas contract with a sufficient number and type of health care providers and facilities to ensure consumer access to local health care services;

(c) Shall adopt rules permitting health care providers within the service area of a plan to collectively negotiate the terms and conditions of contracts with a health carrier including the ability of providers to meet and communicate for the purposes of these negotiations;

(d) Shall adopt rules governing cooperative activities among health care facilities and providers; and

(e) Effective July 1, 1997, in addition to the rule-making authority granted to the department under this section, the department shall have the authority to enforce and administer rules previously adopted by the health services commission and the health care policy board pursuant to RCW 43.72.310.

(3) A health carrier, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health care services or health plans may file a written petition with the department of health requesting approval of conduct that could tend to lessen competition in the relevant market. Such petition shall be filed in a form and manner prescribed by rule of the department of health.

The department of health shall issue a written decision approving or denying a petition filed under this section within ninety days of receipt of a properly completed written petition unless extended by the department of health for good cause shown. The decision shall set forth findings as to benefits and disadvantages and conclusions as to whether the benefits outweigh the disadvantages.

(4) In authorizing conduct and adopting rules of conduct under this section, the department of health with the advice of the attorney general, shall consider the benefits of such conduct in furthering the goals of health care reform including but not limited to:

(a) Enhancement of the quality of health services to consumers;

(b) Gains in cost efficiency of health services;

(c) Improvements in utilization of health services and equipment;

(d) Avoidance of duplication of health services resources; or

(e) And as to (b) and (c) of this subsection: (i) Facilitates the exchange of information relating to performance expectations; (ii) simplifies the negotiation of delivery arrangements and relationships; and (iii) reduces the transactions costs on the part of health carriers and providers in negotiating more cost-effective delivery arrangements.

These benefits must outweigh disadvantages including and not limited to:

(i) Reduced competition among health carriers, health care providers, or health care facilities;

(ii) Adverse impact on quality, availability, or price of health care services to consumers; or

(iii) The availability of arrangements less restrictive to competition that achieve the same benefits.

(5) Conduct authorized by the department of health shall be deemed taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(6) With the assistance of the attorney general's office, the department of health shall actively supervise any conduct authorized under this section to determine whether such conduct or rules permitting certain conduct should be continued and whether a more competitive alternative is practical. The department of health shall periodically review petitioned conduct through, at least, annual progress reports from petitioners, annual or more frequent reviews by the department of health that evaluate whether the conduct is consistent with the petition, and whether the benefits continue to outweigh any disadvantages. If the department of health determines that the likely benefits of any conduct approved through rule, petition, or otherwise by the department of health no longer outweigh the disadvantages attributable to potential reduction in competition, the department of health shall order a modification or discontinuance of such conduct. Conduct ordered discontinued by the department of health shall no longer be deemed to be taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(7) Nothing contained in chapter 492, Laws of 1993 is intended to in any way limit the ability of rural hospital districts to enter into cooperative agreements and contracts pursuant to RCW 70.44.450 and chapter 39.34 RCW.

(8) The secretary of health shall from time to time establish fees to accompany the filing of a petition or a written request to the department to obtain an opinion from the attorney general under this section and for the active supervision of conduct approved under this section. Such fees may vary according to the size of the transaction proposed in the petition or under active supervision. In setting such fees, the secretary shall consider that consumers and the public benefit when activities meeting the standards of this section are permitted to proceed; the importance of assuring that persons sponsoring beneficial activities are not foreclosed from filing a petition under this section because of the fee; and the necessity to avoid a conflict, or the appearance of a conflict, between the interests of the department and the public. The total fee for a petition under this section, a written request to the department to obtain an opinion from the attorney general, or a combination of both regarding the same conduct shall not exceed the level that will defray the reasonable costs the department and attorney general incur in considering a petition and in no event shall be greater than twenty-five thousand dollars. The fee for review of approved conduct shall not exceed the level that will defray the reasonable costs the department and attorney general incur in conducting such a review and in no event shall be greater than ten thousand dollars per annum. The fees shall be fixed by rule adopted in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW, and shall be deposited in the health professions account established in accordance with RCW 43.70.320. [1997 c 274 § 7; 1995 c 267 § 8; 1993 c 492 § 448.]

Additional notes found at www.leg.wa.gov

43.72.860 Managed care pilot projects. (1) The department of labor and industries, in consultation with the workers' compensation advisory committee, may conduct pilot projects to purchase medical services for injured workers through managed care arrangements. The projects shall

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assess the effects of managed care on the cost and quality of, and employer and employee satisfaction with, medical services provided to injured workers.

(2) The pilot projects may be limited to specific employers. The implementation of a pilot project shall be conditioned upon a participating employer and a majority of its employees, or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative, voluntarily agreeing to the terms of the pilot. Unless the project is terminated by the department, both the employer and employees are bound by the project agreements for the duration of the project.

(3) Solely for the purpose and duration of a pilot project, the specific requirements of Title 51 RCW that are identified by the department as otherwise prohibiting implementation of the pilot project shall not apply to the participating employers and employees to the extent necessary for conducting the project. Managed care arrangements for the pilot projects may include the designation of doctors responsible for the care delivered to injured workers participating in the projects.

(4) The projects shall conclude no later than January 1, 1997. [1998 c 245 § 79; 1995 c 81 § 2; 1993 c 492 § 486.]

43.72.902 Public health services account. The public health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and improving the health of Washington residents through the public health system. For purposes of this section, the public health system shall consist of the state board of health, the state department of health, and local health departments and districts. During the 2001-2003 biennium, moneys in the fund may also be used for costs associated with hepatitis C testing and treatment in correctional facilities. [2001 2nd sp.s. c 7 § 916; 2000 2nd sp.s. c 1 § 913; 1995 c 43 § 12; 1993 c 492 § 470.]

Additional notes found at www.leg.wa.gov

43.72.910 Short title—1993 c 492. This act may be known and cited as the Washington health services act of 1993. [1993 c 492 § 487.]

43.72.912 Savings—1993 c 492. The enactment of this act does not have the effect of terminating, or in any way modifying, any obligation or any liability, civil or criminal, which was already in existence on the effective date of this act. [1993 c 492 § 491.]

43.72.914 Reservation of legislative power—1993 c 492. The legislature reserves the right to amend or repeal all or any part of this act at any time and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or any acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time. [1993 c 492 § 494.]

43.72.915 Effective dates—1993 c 492. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its

existing public institutions, and shall take effect July 1, 1993, except for:

(1) Sections 234 through 243, 245 through 254, and 257 of this act, which shall take effect January 1, 1996, or January 1, 1998, if funding is not provided as set forth in section 17(4) of this act; and

(2) Sections 301 through 303 of this act, which shall take effect January 1, 1994. [1995 c 43 § 15; 1993 sp.s. c 25 § 603; 1993 c 492 § 495.]

Additional notes found at www.leg.wa.gov

43.72.916 Effective date—1993 c 494. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 494 § 8.]

Chapter 43.79 RCW STATE FUNDS

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- Cemetery account:* Chapter 68.05 RCW.
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- Grain inspection revolving fund:* RCW 22.09.830.
Highway bond retirement funds: Chapter 47.10 RCW.
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created, use: RCW 46.68.060.
fees for copies of motor vehicle licensing records to go into: RCW 46.01.250.
for-hire motor vehicle certificates and operators' permits, moneys from to go into: RCW 46.72.110.
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moneys for abstracts of operating records to go into: RCW 46.52.130.
operating record abstract fee deposited in: RCW 46.29.050.
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Hospital and medical facilities construction fund: RCW 70.40.150.
Industrial insurance funds: Chapter 51.44 RCW.
Legal services revolving fund: RCW 43.10.150.
Liability account: RCW 4.92.130.
Liquor excise tax fund: RCW 82.08.160, 82.08.170.
Liquor revolving fund: RCW 66.08.170.
Log patrol revolving fund, brand and mark registration fees deposited in: RCW 76.36.160.
Manufactured home installation training account: RCW 43.22A.100.
Marine fuel tax refund account: RCW 79A.25.040.
Medical aid fund: RCW 51.44.020.
Monthly financial report of state treasurer as to: RCW 43.08.150.
Motor vehicle fund
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vehicle license proceeds, deposits in: RCW 46.68.030.
Municipal revolving account: RCW 43.09.282.
Northwest nursery fund, planting stock act moneys to go into: RCW 15.14.145.
OASI contribution account: RCW 41.48.060.
Outdoor recreation account, disposition of outdoor recreational bond issue proceeds in: RCW 79A.25.060.
Oyster reserve fund, proceeds from sale or lease of oyster reserves paid into: RCW 79.135.320.
- Parks and parkways account*
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dividends unclaimed deposited in: RCW 30A.44.150, 30A.44.180.
personal property, proceeds deposited in: RCW 30A.44.220.

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defalcation, fraud or mismanagement losses borne by state, interest: RCW 28A.515.310.

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income from

- to be applied to common schools: State Constitution Art. 9 § 2.*
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- investment, what securities: State Constitution Art. 16 § 5.*
- losses from, how made good: State Constitution Art. 9 § 5.*
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- proceeds of lands and property reverting to state: RCW 28A.515.300.*
- safe deposit box contents, unclaimed after liquidation and winding up of bank or trust company, proceeds from sale deposited in: RCW 30A.44.220.*
- sources of, from what derived: State Constitution Art. 9 § 3.*

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Personnel service fund: RCW 41.06.280.

Professional engineers' account established, disposition of fees into: RCW 18.43.080, 18.43.150.

Public assistance, central operating fund: RCW 74.08.278.

Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

Public schools building bond redemption funds: Chapter 28A.525 RCW.

Public service revolving fund: RCW 80.01.080.

Puget Sound capital construction account created, use: Chapter 47.60 RCW.

Receipt and keeping of: RCW 43.88.160.

Reserve fund, moneys in may be invested in motor vehicle fund warrants: RCW 47.12.210.

Resource management cost account: RCW 79.64.020.

Retirement systems expense fund: RCW 41.50.110.

Revolving funds: RCW 43.88.180, 43.88.190.

Secretary of state's revolving fund: RCW 43.07.130.

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State patrol retirement fund: RCW 43.43.130.

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State treasurer's service fund: RCW 43.08.190.

State vehicle parking account: RCW 43.01.225.

Statute law committee publications account: RCW 1.08.0392.

Teachers' retirement fund: RCW 41.50.200.

Teachers' retirement pension reserve fund: RCW 41.50.200.

Thurston county capital facilities account: RCW 43.19.501.

Toll bridge funds: Chapter 47.56 RCW.

Undistributed receipts account: RCW 43.01.050.

Unemployment compensation funds, generally: RCW 50.16.010, 50.16.020.

University of Washington

- bond retirement fund: RCW 28B.20.720.*
- building account: RCW 28B.15.210.*

Volunteer firefighters' and reserve officers' relief and pension principal fund: RCW 41.24.030.

Washington State University

- bond retirement fund: RCW 28B.30.740.*
- building account: RCW 28B.30.730.*

Wildlife account: Chapter 77.12 RCW.

43.79.010 General fund, how constituted. All moneys paid into the state treasury, except moneys received from taxes levied for specific purposes, and the several permanent

funds of the state and the moneys derived therefrom, shall be paid into the general fund of the state. [2007 c 215 § 5; 1965 c 8 § 43.79.010. Prior: 1907 c 8 § 1; RRS § 5509.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

43.79.015 Accounts in general fund designated as accounts in state treasury—Credit of earnings to general fund. On and after July 1, 1985, all accounts heretofore or hereafter created in the state general fund shall be designated and treated as accounts in the state treasury. Unless otherwise designated by statute, all earnings on balances of such accounts shall be credited to the general fund. [1985 c 57 § 89.]

Additional notes found at www.leg.wa.gov

43.79.018 Obsolete funds and accounts—List provided to the office of financial management and legislative committees. By October 31st of each odd-numbered year, the state treasurer shall provide to the office of financial management and the appropriate fiscal committees of the legislature a list of any funds or accounts in the state treasury or in the custody of the state treasurer that he or she believes to be obsolete. The list must include the standard or process the treasurer used to determine whether an account is believed to be obsolete. [2010 c 222 § 6.]

Intent—2010 c 222: See note following RCW 43.08.150.

43.79.019 Locally held accounts—Review—Requested legislation to hold accounts in state treasury or custody of state treasurer. By June 1, 2010, the office of financial management shall provide the state treasurer with a list of all funds or accounts held locally by any state agency. By October 31, 2010, the state treasurer, working with the office of financial management, shall review all locally held accounts, other than those held by institutions of higher education, and determine whether it would be financially advantageous to the state for those accounts to instead be held in the state treasury or in the custody of the state treasurer. When the treasurer deems it financially advantageous for local accounts to be held in the custody of the state treasurer or in the state treasury, he or she is encouraged to propose executive request legislation to effect those changes. [2010 c 222 § 7.]

Intent—2010 c 222: See note following RCW 43.08.150.

43.79.020 License fees to general fund. Except as otherwise provided by law, all moneys received as fees for the issuance of licenses upon examination, and the renewal thereof, and paid into the state treasury, shall be credited to the general fund; and all expenses incurred in connection with the examination of applicants for licenses, and the issuance and renewal of licenses upon examination shall be paid by warrants drawn against the general fund. [1965 c 8 § 43.79.020. Prior: 1921 c 81 § 1; RRS § 5511.]

43.79.060 State university permanent fund. There shall be in the state treasury a permanent fund known as the "state university permanent fund," into which shall be paid all moneys derived from the sale of lands granted, held, or

devoted to state university purposes. [2007 c 215 § 6; 1965 c 8 § 43.79.060. Prior: 1907 c 168 § 1; RRS § 5518.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

43.79.071 University of Washington fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the University of Washington fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the University of Washington fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.071. Prior: 1955 c 332 § 1.]

43.79.072 University of Washington fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the University of Washington fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.072. Prior: 1955 c 332 § 2.]

43.79.073 University of Washington fund—Abolished. From and after the first day of May, 1955, the University of Washington fund is abolished. [1965 c 8 § 43.79.073. Prior: 1955 c 332 § 3.]

43.79.074 University of Washington fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the University of Washington fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5149; 1965 c 8 § 43.79.074. Prior: 1955 c 332 § 4.]

43.79.075 University of Washington fund—Other revenue for support of university. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the University of Washington fund, shall be used for any purpose except the support of the University of Washington. [1965 c 8 § 43.79.075. Prior: 1955 c 332 § 5.]

43.79.080 University building fund. There shall be in the state treasury a fund known and designated as the "University of Washington building account". [1985 c 57 § 36; 1965 c 8 § 43.79.080. Prior: 1915 c 66 § 1; RRS § 5535.]

Additional notes found at www.leg.wa.gov

43.79.100 Scientific school grant to Washington State University. The one hundred thousand acres of land granted by the United States government to the state for a scientific school in section 17 of the enabling act, are assigned to the support of Washington State University. [1965 c 8 § 43.79.100. Prior: 1917 c 11 § 1; RRS § 5525.]

43.79.110 Scientific permanent fund. There shall be in the state treasury a permanent fund known as the "scientific permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for a scientific school. The income derived from

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investments pursuant to RCW 43.84.080 and 43.33A.140 shall be credited to the Washington State University building account less the applicable allocations to the state treasurer's service fund pursuant to RCW 43.08.190 or to the state investment board expense account pursuant to RCW 43.33A.160. [2007 c 215 § 7; 1991 sp.s. c 13 § 96; 1965 c 8 § 43.79.110. Prior: 1901 c 81 § 4; RRS § 5526.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

Additional notes found at www.leg.wa.gov

43.79.120 Agricultural college grant to Washington State University. The ninety thousand acres of land granted by the United States government to the state for an agricultural college in section 16 of the enabling act are assigned to the support of Washington State University. [1965 c 8 § 43.79.120.]

43.79.130 Agricultural permanent fund. There shall be in the state treasury a permanent fund known as the "agricultural permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for an agricultural college. The income derived from investments pursuant to RCW 43.84.080 and 43.33A.140 shall be credited to the Washington State University building account less the applicable allocations to the state treasurer's service fund pursuant to RCW 43.08.190 or to the state investment board expense account pursuant to RCW 43.33A.160. [2007 c 215 § 8; 1991 sp.s. c 13 § 94; 1965 c 8 § 43.79.130.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

Additional notes found at www.leg.wa.gov

43.79.140 Washington State University—Moneys paid into general fund for support of. There shall be paid into the state general fund for the support of Washington State University the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the agricultural college and school of science;

(2)—All interest or income arising from the proceeds of the sale of any of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1965 c 8 § 43.79.140. Prior: 1905 c 43 § 2; RRS § 5521.]

43.79.150 Normal school grant to former state colleges of education and The Evergreen State College. The one hundred thousand acres of land granted by the United States government to the state for state normal schools in section 17 of the enabling act are assigned to the support of the regional universities, which were formerly the state colleges of education and to The Evergreen State College. [1993 c 411 § 3; 1977 ex.s. c 169 § 104; 1965 c 8 § 43.79.150.]

Finding—1993 c 411: See note following RCW 28B.35.751.

Additional notes found at www.leg.wa.gov

43.79.160 Normal school permanent fund. There shall be in the state treasury a permanent fund known as the "normal school permanent fund," into which shall be paid all

moneys derived from the sale of lands set apart by the enabling act or otherwise for state normal schools. [2007 c 215 § 9; 1965 c 8 § 43.79.160.]

Finding—Intent—Contingent effective date—2007 c 215: See notes following RCW 39.42.070.

43.79.180 Former state colleges of education—Moneys paid into general fund for support of. There shall be paid into the state general fund for the use and support of the regional universities (formerly state colleges of education) the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the state normal schools;

(2)—All interest or income arising from the proceeds of the sale of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1977 ex.s. c 169 § 105; 1965 c 8 § 43.79.180. Prior: 1905 c 43 § 4; RRS § 5523.]

Additional notes found at www.leg.wa.gov

43.79.195 Workforce education investment account (as amended by 2021 c 170). (1) The workforce education investment account is created in the state treasury. All revenues from the workforce investment surcharge created in RCW 82.04.299 and those revenues as specified under RCW 82.04.290(2)(c) must be deposited directly into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for higher education programs, higher education operations, higher education compensation, ~~((and))~~ state-funded student aid programs, ~~and workforce development including career connected learning as defined by RCW 28C.30.020. ((For the 2019-2021 biennium, expenditures from the account may be used for kindergarten through twelfth grade if used for career-connected learning as provided for in chapter 406, Laws of 2019.))~~

(2) Expenditures from the workforce education investment account must be used to supplement, not supplant, other federal, state, and local funding for higher education. [2021 c 170 § 6; 2020 c 2 § 2; 2019 c 406 § 2.]

Findings—Intent—2021 c 170: See note following RCW 71.24.887.

43.79.195 Workforce education investment account (as amended by 2021 c 334). (1) The workforce education investment account is created in the state treasury. All revenues from the workforce investment surcharge created in RCW 82.04.299 and those revenues as specified under RCW 82.04.290(2)(c) must be deposited directly into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for higher education programs, higher education operations, higher education compensation, and state-funded student aid programs. For the 2019-2021 ~~((biennium))~~ and 2021-2023 fiscal biennia, expenditures from the account may be used for kindergarten through twelfth grade if used for career connected learning as provided for in chapter 406, Laws of 2019.

(2) Expenditures from the workforce education investment account must be used to supplement, not supplant, other federal, state, and local funding for higher education. [2021 c 334 § 971; 2020 c 2 § 2; 2019 c 406 § 2.]

Reviser's note: RCW 43.79.195 was amended twice during the 2021 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Tax preference performance statement exemption—Automatic expiration date exemption—Effective dates—2020 c 2: See notes following RCW 82.04.290.

Findings—Intent—2019 c 406: "The legislature finds it is essential that Washington residents have the opportunity to succeed in a competitive global economy by investing in Washington students for Washington jobs. The legislature finds that Washington state is expected to have seven hun-

dred forty thousand job openings by 2021 and that most of these projected openings will be filled by workers with a postsecondary credential, such as a degree, apprenticeship, or certificate. The legislature finds that the state must focus on educational opportunities with targeted investments to keep tuition low and expand capacity for in-state students. The legislature also finds that currently only forty percent of Washington's high school students earn such a credential by age twenty-six, when seventy percent is the goal set by industry and business leaders intent on hiring Washington-educated workers. The legislature finds that Washington state already has several successful programs that help Washington students train for Washington jobs, including the state need grant, the guided pathways initiative at the community and technical colleges, and degree and apprenticeship programs in high-demand fields, such as computer science, engineering, nursing, and more. The legislature further finds that providing additional resources for workforce investments is critical in maintaining Washington's competitiveness in the global economy by ensuring businesses are able to hire Washington talent. Therefore, the legislature intends to create the new workforce education investment account, supported by professions that depend on higher education, that will expand existing investments to help people earn the credentials essential to obtain family-wage jobs and fill the seven hundred forty thousand jobs of the future." [2019 c 406 § 1.]

Findings—Short title—2019 c 406: See notes following RCW 28B.92.200.

Findings—2019 c 406: See note following RCW 28B.94.020.

Findings—Intent—2019 c 406: See note following RCW 28C.30.050.

Findings—Intent—2019 c 406: See note following RCW 43.216.135.

43.79.201 C.E.P. & R.I. account—Moneys transferred to charitable, educational, penal and reformatory institutions account—Exception. (1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons with mental illness or developmental disabilities, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the department of commerce for the housing assistance program under chapter 43.185 RCW. During the 2015-2017 fiscal biennium, the legislature may transfer from the charitable, educational, penal and reformatory institutions account to the state general fund such amounts as reflect excess fund balance of the account. [2016 sp.s. c 36 § 930; 2011 1st sp.s. c 50 § 945; 2009 c 564 § 935; 1995 c 399 § 77; 1991 sp.s. c 13 § 39; 1991 c 204 § 3; 1985 c 57 § 37; 1965 ex.s. c 135 § 2; 1965 c 8 § 43.79.201. Prior: 1961 c 170 § 1.]

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Income potential: RCW 79.02.410.

Inventory of land: RCW 79.02.400.

Additional notes found at www.leg.wa.gov

43.79.202 C.E.P. & R.I. fund—Abolished—Appropriations to be paid from and warrants drawn on account

in general fund. On and after March 20, 1961, the C.E.P. & R.I. fund is abolished; all appropriations made by the thirty-seventh legislature from such abolished fund shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund and all warrants drawn on the C.E.P. & R.I. fund prior to March 20, 1961 and not theretofore presented for payment shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund. [1965 c 8 § 43.79.202. Prior: 1961 c 170 § 2.]

43.79.210 Federal cooperative extension fund. There shall be in the state treasury a fund known as the federal cooperative agricultural extension fund, and all moneys paid into the state treasury for, or to the credit of, the Smith-Lever and Capper-Ketcham funds shall be placed in the federal cooperative agricultural extension fund. [1965 c 8 § 43.79.210. Prior: 1935 c 63 § 1; RRS § 5536-4.]

43.79.260 Governor designated state's agent. The governor is designated the agent of the state to accept and receive all funds from federal and other sources not otherwise provided for by law and to deposit them in the state treasury to the credit of the appropriate fund or account. [1973 c 144 § 1; 1965 c 8 § 43.79.260. Prior: 1945 c 243 § 3; Rem. Supp. 1945 § 5517-12.]

43.79.270 Unanticipated receipts—Duty of department heads. (1) Except as provided in subsection (3) of this section, whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(2) Except as provided in subsection (3) of this section, and notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money

may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate at the same time as it is transmitted to the governor.

(3) During the 2021-2023 fiscal biennium, whenever any money in the amount of \$5,000,000 or more, from the federal government, or from other sources, which was not anticipated in the operating, capital, or transportation budget approved by the legislature has been awarded or has actually been received when the legislature is not in session and the use of the money is unrestricted or provides discretion to use the moneys for more than one agency, program, or purpose, the governor must:

(a) Submit a copy of the proposed allotment amendment to the joint legislative unanticipated revenue oversight committee;

(b) Provide an explanation of the timing, source, and availability of such funds and why the need for the expenditure could not have been anticipated in time for such expenditure to have been approved as part of a budget act for that particular fiscal year; and

(c) Provide the joint legislative unanticipated revenue oversight committee 14 calendar days from submittal the opportunity to review and comment on the proposed allotment amendment before approving under RCW 43.79.280. [2021 c 334 § 972; 2005 c 319 § 105; 1998 c 177 § 1; 1996 c 288 § 37; 1973 c 144 § 2; 1965 c 8 § 43.79.270. Prior: 1945 c 243 § 4; Rem. Supp. 1945 § 5517-13.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

43.79.280 Unanticipated receipts—Duty of governor on approval. (1) Except as provided in subsection (3) of this section, if the governor approves such estimate in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the joint legislative audit and review committee and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law.

(2) If the governor approves an estimate with transportation funding implications, in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval of a proposal to expend transportation money in excess of appropriations provided by law and a statement of the amount approved for expenditure must be

transmitted simultaneously to the standing committees on transportation of the house and senate.

(3) During the 2021-2023 fiscal biennium, before the governor may approve a proposed allotment amendment impacting the operating, capital, or transportation budget as provided in RCW 43.79.270(3), the governor must provide the joint legislative unanticipated revenue oversight committee 14 calendar days from submittal to review and comment on the proposal. If the governor approves a proposed allotment amendment that the committee rejected or is not modified to reflect the committee's alternative allotment amendment, the governor must submit a written explanation of the reasoning of such action to the joint legislative unanticipated revenue oversight committee within five days of approval. To change the amount, use, or purpose of an approved allotment amendment under this subsection, the head of any department, agency, board, or commission must request the change using the process provided in RCW 43.79.270(3). For all other changes, if the governor approves the change, a copy of the statement of approval must be sent to the joint legislative unanticipated revenue oversight committee. [2021 c 334 § 973; 2009 c 549 § 5150; 2005 c 319 § 106; 1998 c 177 § 2; 1996 c 288 § 38; 1973 c 144 § 3; 1965 c 8 § 43.79.280. Prior: 1945 c 243 § 5; Rem. Supp. 1945 § 5517-14.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

43.79.282 Compliance with RCW 43.79.260 through 43.79.280. No state department, agency, board, or commission shall expend money in excess of appropriations provided by law based on the receipt of unanticipated revenues without complying with the provisions of RCW 43.79.260 through 43.79.280. [1973 c 144 § 4.]

43.79.285 Joint legislative unanticipated revenue oversight committee. (1) There is hereby created a joint select committee to be known as the joint legislative unanticipated revenue oversight committee with the following sixteen members:

- (a) The majority and minority leaders of the senate;
- (b) The speaker and the minority leader of the house of representatives;
- (c) Six additional members of the senate with three members from each of the two largest caucuses of the senate appointed by their respective leaders; and
- (d) Six additional members of the house of representatives with three members from each of the two largest caucuses of the house of representatives appointed by their respective leaders.

(2) The cochairs of the committee are the leaders of the two largest caucuses of the senate in even-numbered years and the leaders of the two largest caucuses of the house of representatives in odd-numbered years.

(3) Staff support for the committee is provided by the senate committee services and the house of representatives office of program research.

(4) Members of the committee serve without additional compensation, but must be reimbursed for travel expenses in accordance with RCW 44.04.120. The expenses of the com-

mittee are paid jointly by the senate and the house of representatives and expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(5) The purpose of the committee is to review requests for proposed allotment amendments to spend unanticipated and unbudgeted moneys from federal and nonstate sources pursuant to RCW 43.79.270(3). The committee is necessary to provide oversight of the legislature's delegation of state fiscal authority to the governor while the legislature is not in session and to prevent infringement on the legislature's constitutional power to appropriate state funds.

(6) The committee shall meet as necessary to review requests from the governor pursuant to RCW 43.79.270(3) and to provide comment within 14 calendar days. The committee may conduct its meetings and hold public hearings by conference telephone call, videoconference, or using similar technology equipment so that all persons participating in the meeting can hear each other at the same time. The committee shall adopt rules and procedures for its orderly operation. The activities of the committee are suspended during regular or special legislative sessions.

(7) If the committee chooses to conduct a public hearing on a proposed allotment amendment, the committee must provide the office of financial management with five calendar days notice of the public hearing. The office of financial management, or its designee, must appear before the committee to present the proposed allotment amendment and respond to questions. The committee may also require the state agency, department, board, or commission proposing the allotment amendment to appear before the committee, submit additional information, or engage in other activities necessary for the committee to review and comment on proposed allotment amendments.

(8) Action of the committee is limited to the review and comment on requests submitted by the governor under RCW 43.79.270(3). Action by the committee requires the majority vote of members of the committee in attendance at the meeting. Action may take the form of a recommendation approving the proposed allotment amendment, rejecting the proposed allotment amendment, or proposing an alternative allotment amendment for governor consideration prior to approval under RCW 43.79.280. The committee's action is not binding on the governor. [2021 c 334 § 956.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

43.79.300 Central College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Central College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Central College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.300. Prior: 1955 c 333 § 1.]

43.79.301 Central College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Central College fund shall be paid out of

moneys in the general fund. [1965 c 8 § 43.79.301. Prior: 1955 c 333 § 2.]

43.79.302 Central College fund—Abolished. From and after the first day of May, 1955, the Central College fund is abolished. [1965 c 8 § 43.79.302. Prior: 1955 c 333 § 3.]

43.79.303 Central College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Central College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5151; 1965 c 8 § 43.79.303. Prior: 1955 c 333 § 4.]

43.79.304 Central College fund—Other revenue for support of Central Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Central College fund, shall be used for any purpose except the support of the Central Washington University (formerly Central Washington State College). [1977 ex.s. c 169 § 106; 1965 c 8 § 43.79.304. Prior: 1955 c 333 § 5.]

Additional notes found at www.leg.wa.gov

43.79.310 Eastern College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Eastern College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Eastern College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.310. Prior: 1955 c 334 § 1.]

43.79.311 Eastern College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Eastern College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.311. Prior: 1955 c 334 § 2.]

43.79.312 Eastern College fund—Abolished. From and after the first day of May, 1955, the Eastern College fund is abolished. [1965 c 8 § 43.79.312. Prior: 1955 c 334 § 3.]

43.79.313 Eastern College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Eastern College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5152; 1965 c 8 § 43.79.313. Prior: 1955 c 334 § 4.]

43.79.314 Eastern College fund—Other revenue for support of Eastern Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Eastern College fund, shall be used for any purpose except the support of the Eastern Washington University (formerly

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Eastern Washington State College). [1977 ex.s. c 169 § 107; 1965 c 8 § 43.79.314. Prior: 1955 c 334 § 5.]

Additional notes found at www.leg.wa.gov

43.79.320 Western College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Western College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Western College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.320. Prior: 1955 c 335 § 1.]

43.79.321 Western College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Western College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.321. Prior: 1955 c 335 § 2.]

43.79.322 Western College fund—Abolished. From and after the first day of May, 1955, the Western College fund is abolished. [1965 c 8 § 43.79.322. Prior: 1955 c 335 § 3.]

43.79.323 Western College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Western College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5153; 1965 c 8 § 43.79.323. Prior: 1955 c 335 § 4.]

43.79.324 Western College fund—Other revenue for support of Western Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Western College fund, shall be used for any purpose except the support of the Western Washington University (formerly Western Washington State College). [1977 ex.s. c 169 § 108; 1965 c 8 § 43.79.324. Prior: 1955 c 335 § 5.]

Additional notes found at www.leg.wa.gov

43.79.330 Miscellaneous state funds—Moneys transferred to accounts in the state treasury. All moneys to the credit of the following state funds on the first day of August, 1955, and all moneys thereafter paid to the state treasurer for or to the credit of such funds, are hereby transferred to the following accounts in the state treasury, the creation of which is hereby authorized:

- (1) Capitol building construction fund moneys, to the capitol building construction account;
- (2) Cemetery account moneys, to the cemetery account;
- (3) Feed and fertilizer fund moneys, to the feed and fertilizer account;
- (4) Forest development fund moneys, to the forest development account;
- (5) Harbor improvement fund moneys, to the harbor improvement account;
- (6) Millersylvania Park current fund moneys, to the Millersylvania Park current account;

(7) Real estate commission fund moneys, to the real estate commission account;

(8) Reclamation revolving fund moneys, to the reclamation revolving account;

(9) University of Washington building fund moneys, to the University of Washington building account; and

(10) State College of Washington building fund moneys, to the Washington State University building account. [2008 c 128 § 18; 1991 sp.s. c 13 § 3; 1985 c 57 § 38; 1981 c 242 § 3; 1980 c 32 § 3; 1979 ex.s. c 67 § 3; 1965 c 8 § 43.79.330. Prior: 1959 c 273 § 6; 1957 c 115 § 6; 1955 c 370 § 1.]

Additional notes found at www.leg.wa.gov

43.79.331 Miscellaneous state funds—Abolished.

From and after the first day of May, 1955, all funds from which moneys are transferred to general fund accounts pursuant to RCW 43.79.330, are abolished. [1965 c 8 § 43.79.331. Prior: 1955 c § 370 § 2.]

43.79.332 Miscellaneous state funds—Appropriations of 34th legislature to be paid from general fund.

From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from any of the funds abolished by RCW 43.79.331, shall be paid from the general fund from the account to which the moneys of the abolished fund have been transferred by RCW 43.79.330. [1965 c 8 § 43.79.332. Prior: 1955 c 370 § 3.]

43.79.333 Miscellaneous state funds—Warrants to be paid from general fund.

From and after the first day of May, 1955, all warrants drawn on any fund abolished by RCW 43.79.331 and not theretofore presented for payment, shall be paid from the general fund from the account to which the moneys of the abolished fund are directed by RCW 43.79.330 to be transferred. [1965 c 8 § 43.79.333. Prior: 1955 c 370 § 4.]

43.79.334 Miscellaneous state funds—Expenditures—Revenue from other than general fund.

Expenditures from any account described in RCW 43.79.330 shall be limited to the moneys credited to the account. No revenue from any source other than the general fund, which, except for the provisions of RCW 43.79.330 through 43.79.334, would have been paid into any fund other than the general fund, shall be used for any purpose except those purposes for which such moneys were authorized prior to the enactment hereof. [1965 c 8 § 43.79.334. Prior: 1955 c 370 § 5.]

43.79.335 Miscellaneous state funds—Washington State University building account.

Upon and after June 30, 1961 the account in the state treasury known as the "State College of Washington Building Account" shall be known and referred to as the "Washington State University Building Account." This section shall not be construed as effecting any change in such fund other than the name thereof and as otherwise provided by law. [1985 c 57 § 39; 1965 c 8 § 43.79.335. Prior: 1961 ex.s. c 11 § 3.]

Additional notes found at www.leg.wa.gov

43.79.340 General obligation bond retirement fund—Moneys transferred to general fund.

All moneys in

the state treasury to the credit of the general obligation bond retirement fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the general obligation bond retirement fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.340. Prior: 1955 c 330 § 1.]

43.79.341 General obligation bond retirement fund—Appropriations of 34th legislature to be paid from general fund.

From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the general obligation bond retirement fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.341. Prior: 1955 c 330 § 2.]

43.79.342 General obligation bond retirement fund—Abolished.

From and after the first day of May, 1955, the general obligation bond retirement fund is abolished. [1965 c 8 § 43.79.342. Prior: 1955 c 330 § 3.]

43.79.343 General obligation bond retirement fund—Warrants to be paid from general fund.

From and after the first day of May, 1955, all warrants drawn on the general obligation bond retirement fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5154; 1965 c 8 § 43.79.343. Prior: 1955 c 330 § 4.]

43.79.350 Suspense account.

There is established in the state treasury a special account to be known as the suspense account. All moneys which heretofore have been deposited with the state treasurer in the state treasurer's suspense fund, and moneys hereafter received which are contingent on some future action, or which cover overpayments and are to be refunded to the sender in part or whole, and any other moneys of which the final disposition is not known, shall be transmitted to the state treasurer and deposited in the suspense account. [1985 c 57 § 40; 1981 2nd ex.s. c 4 § 6; 1965 c 8 § 43.79.350. Prior: 1955 c 226 § 1.]

Additional notes found at www.leg.wa.gov

43.79.370 Suspense account—Disbursements—Vouchers—Warrants.

Disbursement from the suspense account (not to exceed receipts), shall be by warrant issued against the account by the state treasurer, upon a properly authenticated voucher presented by the state department or office which deposited the moneys in the account. [1981 2nd ex.s. c 4 § 7; 1965 c 8 § 43.79.370. Prior: 1955 c 226 § 3.]

Additional notes found at www.leg.wa.gov

43.79.381 Penitentiary revolving account abolished.

From and after the first day of August, 1957, the penitentiary revolving account is abolished. [1965 c 8 § 43.79.381. Prior: 1957 c 115 § 2.]

43.79.390 United States vocational education account—Moneys transferred to general fund.

All moneys in the state treasury to the credit of the United States vocational education account in the general fund on August

1, 1957, and all moneys thereafter paid into the state treasury for or to said account, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.390. Prior: 1957 c 226 § 1.]

43.79.391 United States vocational education account—Appropriations to be paid from general fund. From and after the first day of July, 1957, all appropriations made by the thirty-fifth legislature from the United States vocational education account shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.391. Prior: 1957 c 226 § 2.]

43.79.392 United States vocational education account—Abolished. From and after the first day of August, 1957, the United States vocational education account in the general fund is abolished. [1965 c 8 § 43.79.392. Prior: 1957 c 226 § 3.]

43.79.393 United States vocational education account—Warrants to be paid from general fund. From and after the first day of August, 1957, all warrants drawn on the United States vocational education account in the general fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he or she is hereby directed to pay such warrants when presented from the general fund. [2009 c 549 § 5155; 1965 c 8 § 43.79.393. Prior: 1957 c 226 § 4.]

43.79.405 Parks and parkways account abolished—Funds transferred to general fund. The state parks and parkways account created under section 43.79.330(15), chapter 8, Laws of 1965, is hereby abolished and all funds remaining therein at August 1, 1969, transferred to the state general fund. [1969 c 99 § 4.]

Additional notes found at www.leg.wa.gov

43.79.420 Miscellaneous state funds—Moneys transferred to basic state general fund. All moneys to the credit of the following state funds or accounts on the first day of July, 1973, are hereby transferred to the basic state general fund:

- (1) Mass transit trust moneys;
- (2) Probation services moneys;
- (3) Columbia River Gorge commission moneys;
- (4) Washington state song proceeds moneys;
- (5) Juvenile correction institution building construction fund moneys. [1973 1st ex.s. c 59 § 3.]

Additional notes found at www.leg.wa.gov

43.79.421 Miscellaneous state funds—Abolished. From and after the first day of July, 1973, all funds from which moneys are transferred to the basic state general fund pursuant to subsections (1), (2), (4), and (5) of RCW 43.79.420 are abolished. [1973 1st ex.s. c 59 § 4.]

Additional notes found at www.leg.wa.gov

43.79.422 Miscellaneous state funds—Warrants to be paid from basic state general fund. From and after the first day of July, 1973, all warrants drawn on any fund abolished by RCW 43.79.421 and not theretofore presented for

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payment, shall be paid from the basic state general fund. [1973 1st ex.s. c 59 § 5.]

Additional notes found at www.leg.wa.gov

43.79.423 Miscellaneous state funds or accounts—Moneys transferred to state general fund. All moneys to the credit of the following state funds or accounts as of September 8, 1975 are transferred to the state general fund on that date:

- (1) The public school building construction account of the general fund created under RCW 43.79.330; and
- (2) The general administration construction fund in the general fund created under *RCW 43.82.090. [1975 1st ex.s. c 91 § 1.]

*Reviser's note: RCW 43.82.090 was repealed by 1994 c 219 § 20.

43.79.425 Current state school fund—Abolished—Moneys transferred. On and after June 12, 1980, the current state school fund is abolished and the state treasurer shall transfer any moneys in such account on such June 12, 1980, or any moneys thereafter received for such account, to the common school construction fund as referred to in RCW 28A.515.320. [1990 c 33 § 581; 1980 c 6 § 6.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.79.430 Moneys from Inland Power & Light company to be deposited in general fund. All monies [moneys] received from the Inland Power & Light company, its successors and assigns, in virtue of an agreement made and entered into between said company and the State of Washington on August 31, 1932, relating to a fish hatchery on Lewis river, shall be deposited in the general fund. [1980 c 32 § 1; 1933 c 123 § 1.]

Additional notes found at www.leg.wa.gov

43.79.435 Investment reserve account abolished—Deposit of moneys. The investment reserve account is hereby abolished. All moneys in the investment reserve account on *the effective date of this act shall be deposited in the general fund. [1981 c 242 § 4.]

*Reviser's note: For "the effective date of this act," see note following RCW 43.79.330.

Additional notes found at www.leg.wa.gov

43.79.440 Loan principal and interest fund. In order to alleviate temporary cash flow deficiencies in the general fund, it has been and will continue to be necessary to borrow funds through issuance of certificates of indebtedness and to pay interest costs on outstanding certificates of indebtedness and to retire the principal thereof. In order to account for the interest cost of the loans and to pay the principal thereof, there is hereby created in the state treasury the loan principal and interest fund. All principal and interest payments required on certificates of indebtedness will be withdrawn from any general state revenues in the treasury and deposited in the loan principal and interest fund at the time or times required by the terms thereof and such loan principal and interest shall be paid from the loan principal and interest fund

according to the terms and schedules established for such certificates. [1983 c 189 § 8.]

Additional notes found at www.leg.wa.gov

43.79.441 Transfer of moneys from certain school bond and state building construction accounts and funds to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the general fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and not presented for payment shall be paid from the general fund, and the state treasurer shall pay such warrants when presented from the general fund. [1983 c 189 § 5.]

Additional notes found at www.leg.wa.gov

43.79.442 Transfer of moneys from certain highway construction accounts and funds to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the motor vehicle fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and not presented for payment shall be paid from the motor vehicle fund, and the state treasurer shall pay such warrants when presented from the motor vehicle fund. [1983 c 189 § 7.]

Additional notes found at www.leg.wa.gov

43.79.445 Death investigations account—Disbursal. There is established an account in the state treasury referred to as the "death investigations account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in RCW 70.58A.560 and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, the state patrol for providing partial funding for the state dental identification system, the criminal justice training commission for training county coroners, medical examiners and their staff, and the state forensic investigations council. Funds from the death investigations account may be appropriated during the 2013-2015 and 2019-2021 fiscal biennia for the activities of the state crime laboratory within the Washington state patrol. [2019 c 415 § 968; 2019 c 148 § 35; 2018 c 299 § 922; 2017 3rd sp.s. c 1 § 970; 2016 sp.s. c 36 § 931; 2013 2nd sp.s. c 4 § 979; 2005 c 166 § 3; 1997 c 454 § 901; 1995 c 398 § 9; 1991 sp.s. c 13 § 21; 1991 c 176 § 4; 1986 c 31 § 2; 1985 c 57 § 41; 1983 1st ex.s. c 16 § 18.]

Reviser's note: This section was amended by 2019 c 148 § 35 and by 2019 c 415 § 968, each without reference to the other. Both amendments are

incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—Rule-making authority—2019 c 148: See RCW 70.58A.901 and 70.58A.902.

Effective date—2018 c 299: See note following RCW 43.41.433.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

43.79.455 Capitol purchase and development account. The capitol purchase and development account is hereby created in the state treasury. [1987 c 350 § 2.]

Additional notes found at www.leg.wa.gov

43.79.460 Savings incentive account—Report. (1) The savings incentive account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

(2) Within the savings incentive account, the state treasurer may create subaccounts to be credited with incentive savings attributable to individual state agencies, as determined by the office of financial management in consultation with the legislative fiscal committees. Moneys deposited in the subaccounts may be expended only on the authorization of the agency's executive head or designee and only for the purpose of one-time expenditures to improve the quality, efficiency, and effectiveness of services to customers of the state, such as one-time expenditures for employee training, employee incentives, technology improvements, new work processes, or performance measurement. Funds may not be expended from the account to establish new programs or services, expand existing programs or services, or incur ongoing costs that would require future expenditures.

(3) For purposes of this section, "incentive savings" means state general fund appropriations that are unspent as of June 30th of a fiscal year, excluding any amounts included in across-the-board reductions under RCW 43.88.110 and excluding unspent appropriations for:

(a) Caseload and enrollment in entitlement programs, except to the extent that an agency has clearly demonstrated that efficiencies have been achieved in the administration of the entitlement program. "Entitlement program," as used in this section, includes programs for which specific sums of money are appropriated for pass-through to third parties or other entities;

(b) Enrollments in state institutions of higher education;

(c) Except for fiscal year 2011, a specific amount contained in a condition or limitation to an appropriation in the biennial appropriations act, if the agency did not achieve the specific purpose or objective of the condition or limitation;

(d) Debt service on state obligations; and

(e) State retirement system obligations.

(4) The office of financial management, after consulting with the legislative fiscal committees, shall report the amount of savings incentives achieved.

(5) For fiscal year 2010, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2009. For fiscal year 2011, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2010. For fiscal year 2011, the legislature may transfer from the savings incentive account to the state general fund eight million dollars or as much as reflects the fund balance of the account attributable to unspent agency credits prior to fiscal year 2009. Credits for legislative and judicial agencies are not included in this action, with the exception and upon consent of the supreme court, court of appeals, office of public defense, and office of civil legal aid.

(6) For fiscal years 2012 and 2013, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal years 2011 and 2012.

(7) For fiscal year 2016, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent agency credit. Credits for legislative and judicial agencies are not included in this action.

(8) For the 2017-2019 fiscal biennium, the joint legislative audit and review committee and the legislative evaluation and accountability program committee may use moneys deposited in their subaccounts for one-time costs related to their office relocation to the 1063 building. [2017 3rd sp.s. c 1 § 971; 2016 sp.s. c 36 § 932; 2011 2nd sp.s. c 9 § 908; 2011 c 5 § 909; 2010 1st sp.s. c 37 § 928; 2009 c 518 § 21; 2009 c 4 § 902; 1998 c 302 § 1; 1997 c 261 § 1.]

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Additional notes found at www.leg.wa.gov

43.79.465 Education savings account. The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.76.565; (b) seventeen percent to the graduate fellowship trust fund under RCW 28B.76.610; and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions, (d) during the 2007-2009 fiscal biennium, the legislature may transfer from the education savings

account to the state general fund such amounts as reflect the excess fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008, (e) for fiscal year 2011, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal year 2010, and (f) for fiscal years 2012 and 2013, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal years 2011 and 2012. [2011 1st sp.s. c 50 § 946; 2011 c 5 § 910; 2010 1st sp.s. c 37 § 929; 2009 c 4 § 903; 2004 c 275 § 64; 2001 2nd sp.s. c 7 § 917; 1998 c 302 § 2; 1997 c 261 § 2. Formerly RCW 28A.305.235.]

Reviser's note: This section was amended by 2011 c 5 § 910 and by 2011 1st sp.s. c 50 § 946, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

43.79.470 State patrol nonappropriated airplane revolving account. The state patrol nonappropriated airplane revolving account is created in the custody of the state treasurer. All receipts from aircraft user fees paid by other agencies and private users as reimbursement for the use of the patrol's aircraft that are primarily for purposes other than highway patrol must be deposited into the account. Expenditures from the account may be used only for expenses related to these aircraft. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2003 c 360 § 1501.]

Additional notes found at www.leg.wa.gov

43.79.480 Tobacco settlement account—Transfers to life sciences discovery fund—Tobacco prevention and control account. (1) Moneys received by the state of Washington in accordance with the settlement of the state's legal action against tobacco product manufacturers, exclusive of costs and attorneys' fees, shall be deposited in the tobacco settlement account created in this section except as these moneys are sold or assigned under chapter 43.340 RCW.

(2) The tobacco settlement account is created in the state treasury. Moneys in the tobacco settlement account may only be transferred to the state general fund, and to the tobacco prevention and control account for purposes set forth in this section. The legislature shall transfer amounts received as strategic contribution payments as defined in *RCW 43.350.010 to the life sciences discovery fund created in **RCW 43.350.070. During the 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer less than the entire strategic contribution payments, and may transfer amounts attributable to strategic contribution payments into the state general fund.

(3) The tobacco prevention and control account is created in the state treasury. The source of revenue for this account is moneys transferred to the account from the tobacco settlement account, investment earnings, donations to the account, and other revenues as directed by law. Expen-

ditures from the account are subject to appropriation. [2015 3rd sp.s. c 4 § 956; 2013 2nd sp.s. c 4 § 980; 2011 1st sp.s. c 50 § 947. Prior: 2009 c 564 § 937; 2009 c 479 § 30; 2005 c 424 § 12; 2002 c 365 § 15; 1999 c 309 § 927.]

Reviser's note: *(1) RCW 43.350.010 was repealed by 2019 c 83 § 6.

***(2) RCW 43.350.070 was recodified as RCW 43.330.500 pursuant to 2019 c 83 § 5.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

43.79.487 Basic health plan stabilization account.

The basic health plan stabilization account is created in the state treasury, to consist of such revenues, appropriations, and transfers as may be directed by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used solely for the support of the basic health plan under chapter 70.47 RCW. [2011 c 5 § 711.]

Additional notes found at www.leg.wa.gov

43.79.490 Budget stabilization account. The budget stabilization account shall be established and maintained in the state treasury. Moneys in the fund may be spent only after appropriation. [2007 c 484 § 1.]

Additional notes found at www.leg.wa.gov

43.79.495 Budget stabilization account—Governance. (1) The budget stabilization account is governed by the provisions in Article VII, section 12 and this section.

(2) By June 30th of each fiscal year, the state treasurer shall transfer an amount equal to one percent of the general state revenues for that fiscal year to the budget stabilization account.

(3) For the purposes of Article VII, section 12, this section, and RCW 82.33.050, the state employment growth forecast shall be based on the total nonfarm payroll employment data series. [2012 c 187 § 6; 2007 c 484 § 2.]

Additional notes found at www.leg.wa.gov

43.79.496 Transfers of budget stabilization account deposits to the general fund. (1) By June 30, 2015, the treasurer shall transfer into the state general fund the entire budget stabilization account deposit for the 2013-2015 fiscal biennium that is attributable to extraordinary revenue growth, not to exceed fifty million dollars.

(2) During the 2017-2019 fiscal biennium, the treasurer shall transfer into the state general fund the entire budget stabilization account deposit for the 2017-2019 fiscal biennium that is attributable to extraordinary revenue growth, not to exceed one billion seventy-eight million dollars.

(3) For purposes of RCW 43.88.055(4), the transfers in this section do not alter the requirement to balance in ensuing biennia. [2017 3rd sp.s. c 29 § 5; 2015 3rd sp.s. c 2 § 1.]

Effective date—2017 3rd sp.s. c 29: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 7, 2017]." [2017 3rd sp.s. c 29 § 6.]

Effective date—2015 3rd sp.s. c 2: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the

state government and its existing public institutions, and takes effect immediately [June 30, 2015]." [2015 3rd sp.s. c 2 § 2.]

43.79.500 Uniformed service shared leave pool account. The uniformed service shared leave pool account is created in the custody of the state treasurer. All receipts from leave donated under the uniformed service shared leave pool under RCW 41.04.685 and any moneys appropriated or otherwise provided must be deposited into the account. Expenditures from the account may be used only for providing shared leave to employees under the uniformed service shared leave pool. Only the adjutant general or his or her designee may authorize expenditures from the account. The account is not subject to allotment procedures under chapter 43.88 RCW, and no appropriation is required for expenditures. [2007 c 25 § 3.]

Additional notes found at www.leg.wa.gov

43.79.505 Judicial stabilization trust account. The judicial stabilization trust account is created within the state treasury, subject to appropriation. All receipts from the surcharges authorized by RCW 3.62.060(2), 12.40.020, 36.18.018(4), and 36.18.020(5) shall be deposited in this account. Moneys in the account may be spent only after appropriation.

Expenditures from the account may be used only for the support of judicial branch agencies and, for the 2021-2023 fiscal biennium, for expenditures to address state and local costs related to the *State v. Blake* decision. [2022 c 297 § 956; 2019 c 251 § 9; 2011 1st sp.s. c 44 § 6; 2009 c 572 § 5.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Additional notes found at www.leg.wa.gov

43.79.515 State efficiency and restructuring account. The legislature recognizes that efforts to restructure state operations to achieve greater efficiency are often impeded by the lack of a financing tool to support the transition and phase-down of state operations. The state efficiency and restructuring account is established in the state treasury to finance efforts to restructure state operations and achieve budget savings. Moneys from the account may be expended only after appropriation. As directed by the legislature, the state treasurer must transfer funds from specified accounts into the state efficiency and restructuring account to support appropriations from that account. The state treasurer must maintain a record of such transfers and must calculate repayment obligations to any accounts providing surplus funds for a term of eight years at an interest rate that is five-tenths of a [one] percent higher than the interest rate that the account would have earned without the transfer. The state treasurer must submit a report of all such repayment obligations to the office of financial management by September 1st of each year. The governor's budget request under RCW 43.88.060 must include sufficient funds to meet the biennial repayment obligation. [2010 1st sp.s. c 37 § 946.]

Additional notes found at www.leg.wa.gov

43.79.520 Puget Sound taxpayer accountability account. (1)(a) The Puget Sound taxpayer accountability account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the

account may only be used for distribution to counties where a portion of the county is within the boundaries of a regional transit authority that includes a county with a population of one million five hundred thousand or more. Counties may use distributions from the account only to improve educational outcomes in early learning, K-12, and higher education including, but not limited to, for facilities and programs for children and youth that are low-income, homeless, or in foster care, or other vulnerable populations; and for the purposes in subsection (2) of this section. Counties receiving distributions under this section must track all expenditures and uses of the funds. To the greatest extent practicable, the expenditures of the counties must follow the requirements of any transportation subarea equity element used by the regional transit authority.

(2) Counties may use distributions under this section to start endowments to provide support for improving educational outcomes in early learning, K-12, and higher education.

(3) Beginning September 1, 2017, and by the last day of September, December, March, and June of each year thereafter, the state treasurer must distribute moneys deposited in the Puget Sound taxpayer accountability account to counties for which a portion of the county is within the boundaries of a regional transit authority that includes a county with a population of one million five hundred thousand. The treasurer must make the distribution to the counties on the relative basis of that transit authority's population that lives within the respective counties. [2019 c 196 § 1; 2015 3rd sp.s. c 44 § 423.]

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

43.79.530 Dairy nutrient infrastructure account. The dairy nutrient infrastructure account is created in the state treasury. All receipts from repayment of loans made by the state conservation commission for dairy nutrient management demonstration projects must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for dairy nutrient management demonstration projects. [2016 sp.s. c 35 § 6016.]

Effective date—2016 sp.s. c 35: See note following RCW 28B.10.027.

43.79.540 Concealed pistol license renewal notification account. The concealed pistol license renewal notification account is created in the state treasury. All funds collected under RCW 9.41.070 (5)(e) and (6)(d) must be deposited into the account. Expenditures from the account may be used only by the department of licensing for creation of a concealed pistol license renewal notification system and compliance with the notification requirement established in RCW 9.41.070(9)(b). [2017 c 74 § 2.]

43.79.545 Climate resiliency account. The climate resiliency account is created in the state treasury. Revenues to the account shall consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account are dedicated

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to activities that increase climate resiliency and include, but are not limited to:

- (1) Response to climate driven stressors;
- (2) Prevention of environmental and natural resources degradation;
- (3) Activities that restore or improve ecosystem resiliency and sustainability; and
- (4) Measures that anticipate, adapt, or minimize the effects climate change has on communities and the natural environment. [2020 c 357 § 924.]

Effective date—2020 c 357: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 3, 2020]." [2020 c 357 § 926.]

43.79.550 Forest resiliency account. The forest resiliency account is created in the state treasury. Revenues to the account shall consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account are dedicated to activities that include but are not limited to forest health, carbon sequestration, and any other activity that helps protect the forests of Washington. [2022 c 157 § 4. Prior: 2021 c 334 § 958.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

43.79.555 Washington rescue plan transition account. The Washington rescue plan transition account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenues to the account consist of moneys directed by the legislature to the account. Allowable uses of moneys in the account include responding to the impacts of the COVID-19 pandemic including those related to education, human services, health care, and the economy. In addition, the legislature may appropriate from the account to continue activities begun with, or augmented with, COVID-19 related federal funding. [2022 c 157 § 5. Prior: 2021 c 334 § 1902.]

Conflict with federal requirements—2021 c 334: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2021 c 334 § 1906.]

Effective date—2021 c 334: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 18, 2021]." [2021 c 334 § 1908.]

43.79.557 Coronavirus state fiscal recovery fund. The coronavirus state fiscal recovery fund is created in the state treasury. Moneys in the account may be spent only after appropriation. All federal moneys received by the state pursuant to the American rescue plan act of 2021, state fiscal recovery fund, P.L. 117-2, subtitle M, section 9901, must be deposited in the account. The legislature may appropriate from the account only for the purposes authorized in that section of the federal act. [2022 c 157 § 6. Prior: 2021 c 334 § 1903.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

43.79.559 Energy efficiency revolving loan capitalization account. The energy efficiency revolving loan capitalization account is created in the state treasury. All moneys received by the state from the energy efficiency revolving loan fund capitalization grant program created in section 40502 of P.L. 117-58 (infrastructure investment and jobs act) must be deposited into the account. The account may also receive legislative transfers and appropriations and all other revenues directed for deposit into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used to make grants or loans, and to provide technical assistance, to conduct energy audits and to implement audit strategies to increase the energy efficiency of residential and commercial buildings and facilities. [2022 c 296 § 7010.]

Effective date—2022 c 296: See note following RCW 43.63A.125.

43.79.560 Clean energy transition workforce account. The clean energy transition workforce account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support workers who are affected by the state's transition away from fossil fuels to a clean energy economy and associated program administrative expenses. [2022 c 157 § 3.]

43.79.562 Energy efficiency account. The energy efficiency account is hereby created in the state treasury. The sums deposited in the energy efficiency account shall be appropriated and expended for loans, loan guarantees, and grants for projects that encourage the establishment and use of innovative and sustainable industries for renewable energy and energy efficiency technology. The balance of state funds, federal funds, and loan repayments, from the energy recovery act account, are deposited in this account. Moneys in the account may also be appropriated and expended for loans, loan guarantees, and grants for projects that achieve reductions in greenhouse gas emissions for emissions-intensive, trade-exposed industries. [2022 c 157 § 9. Prior: 2018 c 298 § 7008; 2018 c 2 § 7024.]

43.79.565 Capital community assistance account. The capital community assistance account is created in the state treasury. Revenues to the account shall consist of appropriations and transfers by the legislature and all other moneys directed for deposit into the account. Moneys in the account may be spent only after appropriation. Moneys in the account may be used for capital costs to provide community support services, and for infrastructure and other capital expenditures to support the well-being of communities. [2022 c 297 § 946.]

Effective date—2022 c 297: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2022]." [2022 c 297 § 969.]

43.79.567 Community reinvestment account. (1) The community reinvestment account is created in the state treasury. Revenues to the account shall consist of appropriations

and transfers by the legislature and all other moneys directed for deposit into the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used by the department of commerce for:

(a) Economic development, which includes addressing wealth disparities to promote asset building such as home ownership and expanding access to financial resources including, but not limited to, grants and loans for small businesses and entrepreneurs, financial literacy training, and other small business training and support activities;

(b) Civil and criminal legal assistance to provide post-conviction relief and case assistance, including the expungement of criminal records and vacation of criminal convictions;

(c) Community-based violence intervention and prevention services, which may include after-school programs focused on providing education and mentorship to youths; and

(d) Reentry services to facilitate successful transitions for persons formerly incarcerated in an adult correctional facility or juvenile residential facility in Washington.

(3) The distribution of the grants under this section must be done in collaboration with the governor's office of Indian affairs and "by and for community organizations" as defined by the department of commerce and the office of equity. [2022 c 297 § 947.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Chapter 43.79A RCW TREASURER'S TRUST FUND

Sections

- 43.79A.010 Purpose.
- 43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions.
- 43.79A.030 Segregation—Withdrawals.
- 43.79A.040 Management—Income—Investment income account—Distribution.
- 43.79A.041 Millersylvania park trust fund—Investment authority.

Investment accounting: RCW 43.33A.180.

43.79A.010 Purpose. This chapter shall apply to all trust funds which are in the official custody of the state treasurer but are not required by law to be maintained in the state treasury. The purpose of this chapter is to establish a system for the centralized management, protection and control of such funds, hereinafter referred to as nontreasury trust funds, and to assure their investment in such a manner as to realize the maximum possible return consistent with safe and prudent fiscal management. [1973 1st ex.s. c 15 § 1.]

43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions. There is created a trust fund outside the state treasury to be known as the "treasurer's trust fund." All nontreasury trust funds which are in the custody of the state treasurer on April 10, 1973, shall be placed in the treasurer's trust fund and be subject to the terms of this chapter. Funds of the state department of transportation shall be placed in the treasurer's trust fund only if mutually agreed to by the state treasurer and the department. In order to assure an orderly transition to a centralized

management system, the state treasurer may place each of such trust funds in the treasurer's trust fund at such times as he or she deems advisable. Except for department of transportation trust funds, all such funds shall be incorporated in the treasurer's trust fund by June 30, 1975. Other funds in the custody of state officials or state agencies may, upon their request, be established as accounts in the treasurer's trust fund with the discretionary concurrence of the state treasurer. All income received from the treasurer's trust fund investments shall be deposited in the investment income account pursuant to RCW 43.79A.040. [2009 c 549 § 5156; 1991 sp.s. c 13 § 81; 1984 c 7 § 47; 1973 1st ex.s. c 15 § 2.]

Additional notes found at www.leg.wa.gov

43.79A.030 Segregation—Withdrawals. The state treasurer shall be responsible for maintaining segregated accounts of moneys of each fund which is deposited in the treasurer's trust fund. Except as provided by law, all money deposited in the treasurer's trust fund shall be held in trust by the state treasurer and may be withdrawn only upon the order of the depositing agency or its disbursing officer. [1973 1st ex.s. c 15 § 3.]

43.79A.040 Management—Income—Investment income account—Distribution. (1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund,

the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the Washington student loan account, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics

asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [2022 c 244 § 3; 2022 c 206 § 8; 2022 c 183 § 16; 2022 c 162 § 6. Prior: 2021 c 175 § 10; 2021 c 108 § 5; 2020 c 18 § 2; prior: 2019 c 448 § 10; 2019 c 363 § 21; 2019 c 295 § 225; 2019 c 282 § 7; 2019 c 266 § 26; 2019 c 157 § 4; prior: 2018 c 260 § 28; 2018 c 258 § 4; 2018 c 127 § 6; 2017 3rd sp.s. c 5 § 89; prior: 2017 c 322 § 5; 2017 c 285 § 5; 2017 c 257 § 5; 2017 c 248 § 7; prior: 2016 c 203 § 2; 2016 c 173 § 10; 2016 c 69 § 21; 2016 c 39 § 7; prior: 2013 c 251 § 5; 2013 c 88 § 1; prior: 2012 c 198 § 8; 2012 c 196 § 6; 2012 c 187 § 13; 2012 c 114 § 3; 2011 1st sp.s. c 37 § 603; 2011 c 274 § 4; prior: 2010 1st sp.s. c 19 § 22; 2010 1st sp.s. c 13 § 4; 2010 1st sp.s. c 9 § 6; 2010 c 222 § 4; 2010 c 215 § 7; 2009 c 87 § 4; prior: 2008 c 239 § 9; 2008 c 208 § 9; 2008 c 128 § 20; 2008 c 122 § 24; prior: 2007 c 523 § 5; 2007 c 357 § 21; 2007 c 214 § 14; prior: 2006 c 311 § 21; 2006 c 120 § 2; prior: 2005 c 424 § 18; 2005 c 402 § 8; 2005 c 215 § 10; 2005 c 16 § 2; prior: 2004 c 246 § 8; 2004 c 58 § 10; prior: 2003 c 403 § 9; 2003 c 313 § 10; 2003 c 191 § 7; 2003 c 148 § 15; 2003 c 92 § 8; 2003 c 19 § 12; prior: 2002 c 322 § 5; 2002 c 204 § 7; 2002 c 61 § 6; prior: 2001 c 201 § 4; 2001 c 184 § 4; 2000 c 79 § 45; prior: 1999 c 384 § 8; 1999 c 182 § 2; 1998 c 268 § 1; prior: 1997 c 368 § 8; 1997 c 289 § 13; 1997 c 220 § 221 (Referendum Bill No. 48, approved June 17, 1997); 1997 c 140 § 6; 1997 c 94 § 3; 1996 c 253 § 409; prior: 1995 c 394 § 2; 1995 c 365 § 1; prior: 1993 sp.s. c 8 § 2; 1993 c 500 § 5; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Reviser's note: This section was amended by 2022 c 162 § 6, 2022 c 183 § 16, 2022 c 206 § 8, and by 2022 c 244 § 3, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2022 c 183: See note following RCW 80.50.010.

Effective date—2022 c 162: See note following RCW 69.50.505.

Findings—Effective date—2021 c 175: See notes following RCW 47.68.430.

Explanatory statement—2020 c 18: "RCW 1.08.025 directs the code reviser, with the approval of the statute law committee, to prepare legislation for submission to the legislature "concerning deficiencies, conflicts, or obsolete provisions" in statutes. This act makes technical, nonsubstantive amendments as follows:

(1) Sections 2 and 3 of this act correct the accounts and funds listed in the code sections providing for interest income by moving misplaced accounts and funds, removing repealed accounts and funds, and making account and fund names more uniform.

(2) Sections 4 and 5 of this act merge double amendments created when sections were amended in the 2019 legislative session without reference to the amendments made in the same session.

(3) Sections 6 through 25 of this act amend sections to reflect changes in subsection numbering of cross-referenced material.

(4) Section 26 of this act updates a reference to a chapter that was renamed as a result of chapter 295, Laws of 2019." [2020 c 18 § 1.]

Findings—Intent—2019 c 448: See note following RCW 43.07.405.

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Effective date—Findings—Intent—2019 c 295: See notes following RCW 28A.310.235.

Findings—Intent—2019 c 295: See notes following RCW 28B.10.033.

Intent—2019 c 295: See note following RCW 28B.102.030.

Findings—Intent—2019 c 295: See note following RCW 28A.415.265.

Findings—Intent—2019 c 295: See note following RCW 28A.180.120.

Finding—Intent—2019 c 157: See note following RCW 36.78.130.

Effective date—2018 c 258: See note following RCW 79.02.010.

Finding—Intent—2018 c 127: See note following RCW 28A.230.094.

Finding—Intent—2016 c 173: See note following RCW 43.43.545.

Residual balance of funds—Effective date—2013 c 251: See notes following RCW 41.06.280.

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

Finding—Intent—2011 c 274: See note following RCW 28B.50.515.

Intent—2010 c 222: See note following RCW 43.08.150.

Findings—2010 c 215: See note following RCW 50.40.071.

Findings—Intent—2008 c 208: See RCW 28B.121.005.

Findings—2006 c 311: See note following RCW 36.120.020.

SEED act—Findings—Purpose—Short title—2005 c 402: See RCW 43.31.450 and 43.31.485.

Findings—Severability—2003 c 313: See notes following RCW 79.15.500.

Finding—Intent—Short title—2003 c 19: See RCW 28B.133.005 and 28B.133.900.

Intent—Captions not law—1999 c 384: See notes following RCW 43.330.431.

Findings—Intent—Rules adoption—Severability—Effective date—1997 c 368: See notes following RCW 82.08.810.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Intent—1997 c 140: See note following RCW 47.12.330.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Additional notes found at www.leg.wa.gov

43.79A.041 Millersylvania park trust fund—Investment authority. The state treasurer may invest the moneys in the Millersylvania park trust fund as authorized by RCW 43.79A.040. [2012 c 187 § 12.]

Chapter 43.80 RCW FISCAL AGENCIES

Sections

43.80.100	Definitions.
43.80.120	Designation of state fiscal agents—Qualifications—Duration of designation—Compensation.
43.80.125	Appointment of state fiscal agents in connection with registered bonds—Contracting of services.
43.80.150	Treasurers not responsible for funds received—Risk of loss under fiscal agent contract.
43.80.170	Rule-making authority.
43.80.900	Effective date—1969 ex.s. c 80.

Highway bonds, registration: Chapter 47.10 RCW.

Registration of bonds with, fee: RCW 39.44.130.

State treasurer, fiscal agent of the state: RCW 43.08.090.

Trust companies, power to act as fiscal agent for public bodies: RCW 30A.08.150.

43.80.100 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Bond" has the meaning given in RCW 39.46.020.

(2) "Fiscal agent contract" means the contract entered into by the state finance committee with each designated fiscal agent, as provided in RCW 43.80.120.

(3) "Local government" has the meaning given in RCW 39.46.020.

(4) "Obligation" has the meaning given in RCW 39.46.020.

(5) "State" has the meaning given in RCW 39.46.020.

(6) "State fiscal agents" means those banks or trust companies designated as provided in RCW 43.80.120.

(7) "Treasurer" has the meaning given in RCW 39.46.020. [2016 c 105 § 1; 1984 c 7 § 48; 1969 ex.s. c 80 § 1.]

43.80.120 Designation of state fiscal agents—Qualifications—Duration of designation—Compensation. The state finance committee may designate one or more responsible banks or trust companies as state fiscal agents. The duties of a state fiscal agent to the state and its local governments may be determined by the state finance committee and may include, without limitation, acting as authenticating agent, transfer agent, registrar, and paying agent for bonds and other obligations of the state and local governments. The state finance committee shall designate state fiscal agents by any method deemed in the best interests of the state and its local governments. On behalf of the state, the state finance committee shall enter into a contract with each designated state fiscal agent, which contract shall set forth the scope of services to be provided by the state fiscal agent and the terms and conditions, including compensation, for the provision of those services.

If no qualified bank or trust company is willing to accept designation as state fiscal agent, or if the state finance committee considers unsatisfactory the terms under which such bank or trust company is willing so to act, the bonds and other obligations normally payable by the state fiscal agent shall thereupon become payable at the state treasury or at the office of the treasurer of the local government, as the case may be. [2016 c 105 § 2; 1969 ex.s. c 80 § 3.]

43.80.125 Appointment of state fiscal agents in connection with registered bonds—Contracting of services. The state treasurer or the treasurer of a local government may appoint a state fiscal agent to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030. [2016 c 105 § 3; 1995 c 38 § 10; 1994 c 301 § 14; 1985 c 84 § 3; 1983 c 167 § 11.]

Additional notes found at www.leg.wa.gov

(2022 Ed.)

43.80.150 Treasurers not responsible for funds received—Risk of loss under fiscal agent contract. Neither the state treasurer nor the treasurer or other fiscal officer of any local government shall be held responsible for funds received by a state fiscal agent. The state fiscal agent bears the risk of loss for any funds transferred to it under the fiscal agent contract. [2016 c 105 § 4; 1969 ex.s. c 80 § 6.]

43.80.170 Rule-making authority. The state finance committee may adopt appropriate rules to carry out the purposes of this chapter, including without limitation rules relating to the responsibilities of state fiscal agents and the responsibilities of the state and local governments with respect to state fiscal agents. [2016 c 105 § 5.]

43.80.900 Effective date—1969 ex.s. c 80. This act shall take effect on April 1, 1971, or at such time that the present fiscal agent agreement, contracted through April 1, 1971, is abrogated. [1969 ex.s. c 80 § 8.]

Chapter 43.81 RCW STATE-OWNED LIVING FACILITIES

Sections

43.81.010	Legislative declaration.
43.81.020	Availability of state-owned or leased living facilities.
43.81.030	Rent—Custodial housekeeping—Damages.
43.81.040	Maintenance in safe, healthful condition.

43.81.010 Legislative declaration. The legislature recognizes that significant benefits accrue to the state and that certain types of state operations are more efficient when personnel services are available on an extended basis. Such operations include certain types of facilities managed by agencies such as the departments of natural resources, corrections, fish and wildlife, social and health services, transportation, and veterans affairs, and the parks and recreation commission.

The means of assuring that such personnel are available on an extended basis is through the establishment of on-site state-owned or leased living facilities. The legislature also recognizes the restrictions and hardship placed upon those personnel who are required to reside in such state-owned or leased living facilities in order to provide extended personnel services.

The legislature further recognizes that there are instances where it is to the benefit of the state to have state-owned or leased living facilities occupied even though such occupancy is not required by the agency as a condition of employment. [1994 c 264 § 27; 1988 c 36 § 19; 1985 c 463 § 1.]

43.81.020 Availability of state-owned or leased living facilities. (1) Whenever an agency requires that an employee reside in state-owned or leased living facilities as a condition of employment, such living facilities shall be made available to the employee under the conditions set forth in RCW 43.81.030 and 43.81.040.

(2) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) it would be to the agency's benefit to have the facility occupied by an employee of the agency whose duties involve extended

personnel services associated with the work site upon which the living facility is located or at work site near to where the living facility is located, the agency may make the facility available to such employee.

(3) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) the facility has been made available to employees under subsection (2) of this section and that no such employees have opted to reside in the facility, the agency may make the facility available for occupancy to other interested parties. [1985 c 463 § 2.]

43.81.030 Rent—Custodial housekeeping—Damages. (1) No rent may be charged to persons living in facilities provided under RCW 43.81.020(1). Such employees shall pay the costs of utilities associated with the living facility.

(2) Any person occupying state-owned or leased living facilities shall do so with the understanding that he or she assumes custodial housekeeping responsibility as directed by the agency. Such responsibility shall not include maintenance, repairs, or improvements to the facilities. An occupant of a state-owned or leased facility is liable for damages to the facility in excess of normal wear and tear. [1989 c 11 § 16; 1985 c 463 § 3.]

Additional notes found at www.leg.wa.gov

43.81.040 Maintenance in safe, healthful condition. The state shall maintain living facilities occupied under RCW 43.81.020 in a safe, healthful condition. [1985 c 463 § 4.]

Chapter 43.82 RCW STATE AGENCY HOUSING

Sections

43.82.010	Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Use of lease as collateral or security—Colocation and consolidation—Studies—Delegation of functions—Exemptions.
43.82.020	Approval by capitol committee when real estate located in Thurston county.
43.82.030	Acquisition of property and rights declared public use—Eminent domain.
43.82.035	Pre-design process for requests to lease, purchase, or build facilities for state programs—Approval of plans for major leased facilities.
43.82.045	Approval of leases—Privately owned buildings being planned or under construction.
43.82.055	Long-term facility needs—Six-year facility plan—Efficient use of state facilities.
43.82.110	Lease of space—Surplus space.
43.82.120	Enterprise services account—Rental income.
43.82.125	Authorized uses for enterprise services account.
43.82.130	Powers and duties of director.
43.82.140	Insurance on buildings.
43.82.150	Inventory of state-owned or leased facilities—Report.

Agricultural commodity commissions exempt: RCW 15.04.200.

43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Use of lease as collateral or security—Colocation and consolidation—Studies—Delegation of functions—Exemptions.

(1) The director of enterprise services, on behalf of the agency involved and after consultation with the office of financial management, shall purchase, lease, lease purchase,

rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. Any such transfer, exchange, or sale must comply with RCW 43.17.400, and may be made in accordance with RCW 39.33.015. This section does not transfer financial liability for the acquired property to the department of enterprise services.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of enterprise services. The director of enterprise services shall report to the office of financial management and the appropriate committees of the legislature annually on any exemptions granted pursuant to this subsection.

(3) Except for leases permitted under subsection (4) of this section, the director of enterprise services may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of enterprise services may enter into a long-term lease greater than ten years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of enterprise services may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility.

(4) The director of enterprise services may fix the terms of leases for property under the department of enterprise services' control at the former Northern State Hospital site for up to sixty years.

(5) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules that establish the criteria under which any such approval may

be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of enterprise services shall promptly notify the state treasurer whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

(6) It is the policy of the state to encourage the colocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

(7) The director of enterprise services shall provide coordinated long-range planning services to identify and evaluate opportunities for colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of enterprise services shall determine whether an opportunity exists for colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a colocation opportunity exists, the director of enterprise services shall consult with the affected state agencies and the office of financial management to evaluate the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of enterprise services, in consultation with the office of financial management, shall develop procedures for implementing colocation and consolidation of state facilities.

(8) The director of enterprise services is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of enterprise services shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(9) If the director of enterprise services determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or (8) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(10) In order to obtain maximum utilization of space, the director of enterprise services shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for colocation and consolidation of state agency office and support facilities.

(11) The director of enterprise services may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of enterprise services shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

(12) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of enterprise services or the director's designee, and recorded with the county auditor of the county in which the property is located.

(13) The director of enterprise services may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable. By January 1st of each year, beginning January 1, 2008, the department shall submit an annual report to the office of financial management and the appropriate committees of the legislature on all delegated leases.

(14) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor and cannabis board for liquor stores and warehouses;

(c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes; and

(d) The department of commerce for community college health career training programs, offices for the department of commerce or other appropriate state agencies, and other non-profit community uses, including community meeting and training facilities, where the real estate is acquired during the 2013-2015 fiscal biennium.

(15) Notwithstanding any provision in this chapter to the contrary, the department of enterprise services may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

(16) The department of enterprise services shall report annually to the office of financial management and the appropriate fiscal committees of the legislature on facility leases executed for all state agencies for the preceding year, lease terms, and annual lease costs. The report must include leases executed under RCW 43.82.045 and subsection (13) of this section. [2018 c 217 § 7; 2015 c 99 § 1; 2013 2nd sp.s. c 4 § 981; 2007 c 506 § 8; 2004 c 277 § 906; 1997 c 117 § 1. Prior: 1994 c 264 § 28; 1994 c 219 § 7; 1990 c 47 § 1; 1988 c 36 §

20; 1982 c 41 § 1; 1969 c 121 § 1; 1967 c 229 § 1; 1965 c 8 § 43.82.010; prior: 1961 c 184 § 1; 1959 c 255 § 1.]

Effective dates—2013 2nd sp.s. c 4: See note following RCW 43.01.020.

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

Finding—1994 c 219: See note following RCW 43.88.030.

Departments to share occupancy costs—Capital projects surcharge: RCW 43.01.090.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.530.

Public works: Chapter 39.04 RCW.

Use of enterprise services account in acquiring real estate: RCW 43.19.500.

Additional notes found at www.leg.wa.gov

43.82.020 Approval by capitol committee when real estate located in Thurston county. The acquisition of real estate, and use thereof, shall be subject to the approval of the state capitol committee when the real estate is located in Thurston county. [1965 c 8 § 43.82.020. Prior: 1961 c 184 § 2; 1959 c 255 § 2.]

43.82.030 Acquisition of property and rights declared public use—Eminent domain. The acquisition of any real property or any rights or interests therein for the purpose of this chapter is hereby declared to be for a public use. In furtherance of the purposes of this chapter, the right of eminent domain may be exercised as provided for in chapter 8.04 RCW. [1965 c 8 § 43.82.030. Prior: 1959 c 255 § 3.]

43.82.035 Predesign process for requests to lease, purchase, or build facilities for state programs—Approval of plans for major leased facilities. (1) The office of financial management shall design and implement a modified predesign process for any space request to lease, purchase, or build facilities that involve (a) the housing of new state programs, (b) a major expansion of existing state programs, or (c) the relocation of state agency programs. This includes the consolidation of multiple state agency tenants into one facility. The office of financial management shall define facilities that meet the criteria described in (a) and (b) of this subsection.

(2) State agencies shall submit modified predesigns to the office of financial management and the legislature. Modified predesigns must include a problem statement, an analysis of alternatives to address programmatic and space requirements, proposed locations, and a financial assessment. For proposed projects of twenty thousand gross square feet or less, the agency may provide a cost-benefit analysis, rather than a life-cycle cost analysis, as determined by the office of financial management.

(3) Projects that meet the capital requirements for predesign on major facility projects with an estimated project cost of 10 million dollars or more pursuant to chapter 43.88 RCW shall not be required to prepare a modified predesign.

(4) The office of financial management shall require state agencies to identify plans for major leased facilities as part of the ten-year capital budget plan. State agencies shall not enter into new or renewed leases of more than one million dollars per year unless such leases have been approved by the office of financial management except when the need for the lease is due to an unanticipated emergency. The regular ter-

mination date on an existing lease does not constitute an emergency. The department of enterprise services shall notify the office of financial management and the appropriate legislative fiscal committees if an emergency situation arises.

(5) For project proposals in which there are estimates of operational savings, the office of financial management shall require the agency or agencies involved to provide details including but not limited to fund sources and timelines. [2021 c 54 § 3; 2015 c 225 § 75; 2007 c 506 § 4.]

Findings—Intent—2021 c 54: See note following RCW 43.88.110.

Findings—Intent—2007 c 506: "The legislature finds that the capital stock of facilities owned and leased by state agencies represents a significant financial investment by the citizens of the state of Washington. Capital construction projects funded in the state's capital budget require diligent analysis and approval by the governor and the legislature. In some cases, long-term leases obligate state agencies to a larger financial commitment than some capital construction projects without a comparable level of diligence. State facility analysis and portfolio management can be strengthened through greater oversight and support from the office of financial management and the legislature and with input from stakeholders.

The legislature finds that the state lacks specific policies and standards on conducting life-cycle cost analysis to determine the cost-effectiveness of owning or leasing state facilities and lacks clear guidance on when and how to use it. Further, there is limited oversight and review of the results of life-cycle cost analyses in the capital project review process. Unless decision makers are provided a thorough economic analysis, they cannot identify the most cost-effective alternative or identify opportunities for improving the cost-effectiveness of state facility alternatives.

The legislature finds that the statewide accounting system limits the ability of the office of financial management and the legislature to analyze agency expenditures that include only leases for land, buildings, and structures. Additionally, other statewide data systems that track state-owned and leased facility information are limited, onerous, and inflexible.

Therefore, it is the intent of the legislature to strengthen the office of financial management's oversight role in state facility analysis and decision making. Further, it is the intent of the legislature to support the office of financial management's and the *department of general administration's need for technical expertise and data systems to conduct thorough analysis, long-term planning, and state facility portfolio management by providing adequate resources in the capital and operating budgets." [2007 c 506 § 1.]

***Reviser's note:** The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 § 107.

43.82.045 Approval of leases—Privately owned buildings being planned or under construction. State agencies are prohibited from entering into lease agreements for privately owned buildings that are in the planning stage of development or under construction unless there is prior written approval by the director of the office of financial management. Approval of such leases shall not be delegated. Lease agreements described in this section must comply with RCW 43.82.035. [2007 c 506 § 5.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

43.82.055 Long-term facility needs—Six-year facility plan—Efficient use of state facilities. The office of financial management shall:

(1) Work with the department of enterprise services and all other state agencies to determine the long-term facility needs of state government;

(2) Develop and submit a six-year facility plan to the legislature by January 1st of every odd-numbered year that includes state agency space requirements and other pertinent data necessary for cost-effective facility planning. The department of enterprise services shall assist with this effort as required by the office of financial management; and

(3) Establish and enforce policies and workplace strategies that promote the efficient use of state facilities. [2015 3rd sp.s. c 1 § 301; 2015 c 225 § 76; 2007 c 506 § 6.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

43.82.110 Lease of space—Surplus space. All office or other space made available through the provisions of this chapter shall be leased by the director to such state or federal agencies, for such rental, and on such terms and conditions as he or she deems advisable: PROVIDED, HOWEVER, if space becomes surplus, the director is authorized to lease office or other space in any project to any person, corporation or body politic, for such period as the director shall determine said space is surplus, and upon such other terms and conditions as he or she may prescribe. [1994 c 219 § 13; 1969 c 121 § 2; 1965 c 8 § 43.82.110. Prior: 1961 c 184 § 4; 1959 c 255 § 11.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.82.120 Enterprise services account—Rental income. All rental income collected by the department of enterprise services from rental of state buildings shall be deposited in the enterprise services account. [2011 1st sp.s. c 43 § 254; 1998 c 105 § 14; 1994 c 219 § 14; 1965 c 8 § 43.82.120. Prior: 1961 c 184 § 5; 1959 c 255 § 12.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Finding—1994 c 219: See note following RCW 43.88.030.

Additional notes found at www.leg.wa.gov

43.82.125 Authorized uses for enterprise services account. The enterprise services account shall be used to pay all costs incurred by the department in the operation of real estate managed under the terms of this chapter. Moneys received into the enterprise services account shall be used to pay rent to the owner of the space for occupancy of which the charges have been made and to pay utility and operational costs of the space utilized by the occupying agency: PROVIDED, That moneys received into the account for occupancy of space owned by the state where utilities and other operational costs are covered by appropriation to the department of enterprise services shall be immediately transmitted to the general fund. [2011 1st sp.s. c 43 § 255; 1998 c 105 § 15; 1965 c 8 § 43.82.125. Prior: 1961 c 184 § 6.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.82.130 Powers and duties of director. The director of the department of enterprise services is authorized to do all acts and things necessary or convenient to carry out the powers and duties expressly provided in this chapter. [2015 c 225 § 77; 1965 c 8 § 43.82.130. Prior: 1959 c 255 § 13.]

43.82.140 Insurance on buildings. The director may, in his or her discretion, obtain fire or other hazard insurance on any building under his or her management. [2009 c 549 § 5158; 1965 c 8 § 43.82.140. Prior: 1961 c 184 § 7.]

43.82.150 Inventory of state-owned or leased facilities—Report. (1) The office of financial management shall

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develop and maintain an inventory system to account for all facilities owned or leased by state government. At a minimum, the inventory system must include the facility owner, location, type, condition, use data, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. The inventory must be updated by all agencies, departments, boards, commissions, and institutions by June 30th of each year. The office of financial management shall publish a report summarizing information contained in the inventory system for each agency by October 1st of each year, beginning in 2010 and shall submit this report to the appropriate fiscal committees of the legislature.

(2) The inventory required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property. [2015 3rd sp.s. c 1 § 302; 2007 c 506 § 7; 1997 c 96 § 2; 1993 c 325 § 1.]

Findings—Intent—2007 c 506: See note following RCW 43.82.035.

Findings—Purpose—1997 c 96: "The legislature finds that the capital stock of facilities owned by state agencies represents a significant financial investment by the citizens of the state of Washington, and that providing agencies with the tools and incentives needed to adequately maintain state facilities is critically important to realizing the full value of this investment. The legislature also finds that ongoing reporting of facility inventory, condition, and maintenance information by agencies will improve accountability and assist in the evaluation of budget requests and facility management by the legislature and governor. The purpose of this act is to ensure that recent enhancements to facility and maintenance reporting systems implemented by the office of financial management, and a new program created by the *department of general administration to provide maintenance information and technical assistance to state and local agencies, are sustained into the future." [1997 c 96 § 1.]

***Reviser's note:** The department of general administration was renamed the department of enterprise services by 2011 1st sp.s. c 43 § 107.

Chapter 43.83 RCW CAPITAL IMPROVEMENTS

Sections

43.83.020	State building construction account.
43.83.300	State higher education construction account.
43.83.310	Higher education construction account.
43.83.320	Higher education reimbursable short-term bond account.
43.83.330	State and local improvements revolving account—Definitions.
43.83.340	State and local improvements revolving account—water supply facilities—Definition.
43.83.350	State and local improvements revolving account, Waste Disposal Facilities, 1980—Definitions.
43.83.360	State social and health services construction account—Definition.
43.83.370	Fisheries capital projects account.
43.83.400	Transfers of real property and facilities to nonprofit corporations.
43.83.410	Transfers of real property and facilities to nonprofit corporations.

43.83.020 State building construction account. (1) The state building construction account is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation acts.

(2) During the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys from the state building construction account to the advanced environmental mitigation revolving account. [2019 c 413 § 7031; 2015 1st sp.s. c 4 § 33; 2004 c 276 § 907; 1991 sp.s. c 13 § 46; 1987 1st ex.s. c 3 § 9; 1985 c 57 § 43; 1965 c 8 § 43.83.020. Prior: 1959 ex.s. c 9 § 2.]

Effective date—2019 c 413: See note following RCW 28B.15.210.

Additional notes found at www.leg.wa.gov

43.83.300 State higher education construction account. The proceeds from all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account hereby created in the state treasury. [2015 1st sp.s. c 4 § 25; 1991 sp.s. c 13 § 45; 1985 c 57 § 11; 1973 1st ex.s. c 135 § 2. Formerly RCW 28B.10.851.]

Additional notes found at www.leg.wa.gov

43.83.310 Higher education construction account. The proceeds from all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account hereby created in the state treasury. [2015 1st sp.s. c 4 § 26; 1991 sp.s. c 13 § 8; 1985 c 57 § 13; 1979 ex.s. c 253 § 4. Formerly RCW 28B.14D.040.]

Reviser's note: This section has been recodified pursuant to RCW 1.08.015(2)(h).

Additional notes found at www.leg.wa.gov

43.83.320 Higher education reimbursable short-term bond account. The higher education reimbursable short-term bond account is hereby created in the state treasury, and shall be administered by the University of Washington, subject to legislative appropriation. This account shall be used exclusively for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. [2015 1st sp.s. c 4 § 41; 2012 c 198 § 4; 1989 1st ex.s. c 14 § 13; 1988 c 36 § 22; 1986 c 103 § 1; 1985 ex.s. c 4 § 2. Formerly RCW 43.99G.020.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Additional notes found at www.leg.wa.gov

43.83.330 State and local improvements revolving account—Definitions. (1) The state and local improvements revolving account is hereby created in the state treasury and shall be used exclusively for the purpose of providing funds for the planning, acquisition, construction, and improvement of public waste disposal facilities in this state.

(2) As used in this section the phrase "public waste disposal facilities" shall not include the acquisition of equipment used to collect, carry, and transport garbage.

(3) As used in this section, the term "waste disposal facilities" shall mean any facilities or systems owned or operated by a public body for the collection, storage, treatment, disposal, recycling, control, or recovery of liquid wastes or solid wastes, including, but not limited to, sanitary sewage, storm-water, residential, industrial, and commercial wastes, material segregated into recyclables and nonrecyclables, and any combination of such wastes; and all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to such purpose.

(4) As used in this section, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [2015 1st sp.s. c 4 § 34; 1991 sp.s. c 13 § 43; 1985 c 57 § 44; 1972 ex.s. c 127 § 3. Formerly RCW 43.83A.030.]

Additional notes found at www.leg.wa.gov

43.83.340 State and local improvements revolving account-water supply facilities—Definition. (1) The state and local improvements revolving account-water supply facilities is hereby created in the general fund and shall be used exclusively for the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state.

(2) As used in this section, the term "water supply facilities" means domestic, municipal, industrial, and agricultural (and any associated fishery, recreational, or other beneficial use) water supply or distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system. [2015 1st sp.s. c 4 § 39; 1979 ex.s. c 234 § 3. Formerly RCW 43.99E.020.]

Reviser's note: "This act," chapter 43.99E RCW (1979 ex.s. c 234), was adopted and ratified by the people at the November 4, 1980, general election (Referendum Bill No. 38). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

Additional notes found at www.leg.wa.gov

43.83.350 State and local improvements revolving account, Waste Disposal Facilities, 1980—Definitions. (1) The state and local improvements revolving account, Waste Disposal Facilities, 1980 is hereby created in the state treasury and shall be used exclusively for the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70A.140.060, in this state.

(2) "Waste disposal and management facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, recycling, or recovery of nonradioactive liquid wastes or nonradioactive solid wastes, or a combination thereof, including, but not limited to, sanitary sewage, stormwater, residential, industrial, commercial, and agricultural wastes, and concentrations of organic sediments waste, inorganic nutrients, and toxic materials which are causing environmental degradation and loss of the beneficial use of the environment, and material segregated into recyclables and nonrecyclables. Waste disposal and management facilities may include all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to such purpose. As used in this chapter, the phrase "waste disposal and management facilities" shall not include the acquisition of equipment used to collect residential or commercial garbage.

(3) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government.

(4) "Control" means those measures necessary to maintain and/or restore the beneficial uses of polluted land and water resources including, but not limited to, the diversion, sedimentation, flocculation, dredge and disposal, or containment or treatment of nutrients, organic waste, and toxic material to restore the beneficial use of the state's land and water resources and prevent the continued pollution of these resources.

(5) "Planning" means the development of comprehensive plans for the purpose of identifying statewide or regional needs for specific waste disposal facilities as well as the development of plans specific to a particular project. [2021 c 65 § 46; 2015 1st sp.s. c 4 § 40; 1991 sp.s. c 13 § 44; 1985 c 57 § 56; 1980 c 159 § 3. Formerly RCW 43.99F.030.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Additional notes found at www.leg.wa.gov

43.83.360 State social and health services construction account—Definition. (1) The state social and health services construction account is hereby created in the state treasury and shall be used exclusively for the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities.

(2) As used in this section, the term "social and health services facilities" shall include, without limitation, facilities for use in veterans' service programs, adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the social and health services construction account in the general fund by chapter 276, Laws of 1975 1st ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [2015 1st sp.s. c 4 § 36; 1991 sp.s. c 13 § 56; 1985 c 57 § 49; 1975-'76 2nd ex.s. c 125 § 3. Formerly RCW 43.83H.030.]

Additional notes found at www.leg.wa.gov

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43.83.370 Fisheries capital projects account. All grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund hereby created in the state treasury. All such proceeds shall be used exclusively for the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the department of fish and wildlife. [2015 1st sp.s. c 4 § 37; 1975-'76 2nd ex.s. c 132 § 4. Formerly RCW 43.83I.040.]

43.83.400 Transfers of real property and facilities to nonprofit corporations. (1) Public bodies may transfer without further consideration real property and facilities acquired, constructed, or otherwise improved under the handicapped facilities 1979 bond issue to nonprofit corporations organized to provide services for individuals with physical or mental disabilities, in exchange for the promise to continually operate services benefiting the public on the site, subject to all the conditions in this section. For purposes of this section, "transfer" may include lease renewals. The nonprofit corporation shall use the real property and facilities for the purpose of providing the following limited programs as designated by the department of social and health services: Nonprofit community centers, close-to-home living units, employment and independent living training centers, vocational rehabilitation centers, developmental disabilities training centers, and community homes for individuals with mental illness.

(2) The deed transferring the property in subsection (1) of this section must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section.

(3) The nonprofit corporation is authorized to sell the property transferred to it pursuant to subsection (1) of this section only if all of the following conditions are satisfied: (a) Any such sale must have the prior written approval by the department of social and health services; (b) all proceeds from such a sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property; (c) any new property or properties must be used for the purposes stated in subsection (1) of this section; (d) the new property or properties must be available for use within one year of sale; and (e) the nonprofit corporation must enter into an agreement with the public entity to reimburse the public entity for the value of the original property at the time of the sale if the nonprofit corporation ceases to use the new property for the purposes described in subsection (1) of this section.

(4) If the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section, the property and facilities revert immediately to the public body. The public body shall then determine if the property, or the reimbursed amount in the case of a reimbursement under subsection (3)(e) of this section, may be used by another program as designated by the department of social and health services. These programs have priority in obtaining the property to ensure that the purposes specified in the handicapped facilities 1979 bond issue are carried out.

(5) As used in this section, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [2015 1st sp.s. c 4 § 38; 2006 c 35 § 2. Formerly RCW 43.99C.070.]

Reviser's note: This section has been recodified pursuant to RCW 1.08.015(2)(h).

Findings—2006 c 35: "The legislature finds that protecting the public health, safety, and welfare by providing services to needy or vulnerable persons is a fundamental purpose of government. The legislature further finds that private nonprofit corporations fill an important public purpose in providing these types of health, safety, and welfare services to our state's residents. Acting through partnerships with governmental entities, these private sector providers are able to increase the amount and quality of these services available to state residents. The legislature finds that ensuring continued provision of these services in the private sector confers a valuable benefit on the public that constitutes consideration for transfer of certain public property and facilities to eligible private nonprofit corporations, subject to restrictions that provide continued protection of the public interest." [2006 c 35 § 1.]

43.83.410 Transfers of real property and facilities to nonprofit corporations. (1) Public bodies may transfer without further consideration real property and facilities acquired, constructed, or otherwise improved under the social and health services facilities 1972 bond issue to nonprofit corporations organized to provide individuals with social and health services, in exchange for the promise to continually operate services benefiting the public on the site, subject to all the conditions in this section. For purposes of this section, "transfer" may include lease renewals. The nonprofit corporation shall use the real property and facilities for the purpose of providing the following programs as designated by the department of social and health services: Facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation.

(2) The deed transferring the property in subsection (1) of this section must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section.

(3) The nonprofit corporation is authorized to sell the property transferred to it pursuant to subsection (1) of this section only if all of the following conditions are satisfied: (a) Any such sale must be subject to prior written approval by the department of social and health services; (b) all proceeds from such a sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property; (c) any new property or properties must be used for the purposes stated in subsection (1) of this section; (d) the new property or properties must be available for use within one year of sale; and (e) the nonprofit corporation must enter into an agreement with the public entity to reimburse the public entity for the value of the original property at the time of the sale if the nonprofit corporation ceases to use the new property for the purposes described in subsection (1) of this section.

(4) If the nonprofit corporation ceases to use the property for the purposes described in subsection (1) of this section,

the property and facilities revert immediately to the public body. The public body shall then determine if the property, or the reimbursed amount in the case of a reimbursement under subsection (3)(e) of this section, may be used by another program as designated by the department of social and health services. These programs have priority in obtaining the property to ensure that the purposes specified in the social and health services facilities 1972 bond issue are carried out.

(5) As used in this section, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [2015 1st sp.s. c 4 § 35; 2006 c 35 § 3. Formerly RCW 43.83D.120.]

Reviser's note: This section has been recodified pursuant to RCW 1.08.015(2)(h).

Findings—2006 c 35: See note following RCW 43.83.400.

Chapter 43.83B RCW DROUGHT CONDITIONS (Formerly: Water supply facilities)

Sections

43.83B.011	Definitions.
43.83B.230	Provision for recreation, fish and wildlife enhancement and other public benefits.
43.83B.400	Findings—Intent.
43.83B.405	Drought advisories—Orders of drought emergency—Procedure.
43.83B.410	Drought emergencies—Withdrawals and diversions—Agreements.
43.83B.415	Grants to public entities.
43.83B.420	Rules.
43.83B.425	Applicability—Construction.
43.83B.430	State drought preparedness and response account.
43.83B.440	Drought contingency plan revision.
43.83B.450	Long-term water right lease agreements—Pilot program.
43.83B.901	Severability—1977 ex.s. c 1.

43.83B.011 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Drought condition" means that the water supply for a geographic area, or for a significant portion of a geographic area, is below seventy-five percent of normal and the water shortage is likely to create undue hardships for water users or the environment.

(3) "Normal" water supply, for the purpose of determining drought conditions, means the median amount of water available to a geographical area, relative to the most recent thirty-year base period used to define climate normals. [2020 c 168 § 1.]

43.83B.230 Provision for recreation, fish and wildlife enhancement and other public benefits. In the course of considering applications under this chapter, the department of ecology shall make known to other state agencies possibilities which may arise to provide public benefits such as recreation or fish and wildlife enhancement in connection with proposed projects. Such agencies, including the department of ecology, are authorized to participate in said projects pro-

vided agency funds are made available to pay the full cost of their participation. [1975 1st ex.s. c 295 § 14.]

43.83B.400 Findings—Intent. The legislature recognizes that drought and water shortages can place a significant hardship on Washington communities, farms, and the natural environment. Rising temperatures due to climate change may cause water supply shortages to be more frequent and severe in the future. Therefore, the ability to respond to drought and water shortage emergencies is critical to the long-term prosperity of our state. It is the intent of the legislature to provide the department with the authority to effectively and efficiently take actions when a drought emergency occurs to alleviate hardship on water users and our natural environment.

The legislature also recognizes that effective emergency drought response is predicated on building resiliency and preparedness before water shortages occur. Therefore, it is also the intent of the legislature that the department assist water users by supporting measures to strengthen the resiliency and preparedness of water users to drought conditions in the long term. [2020 c 168 § 2; 1989 c 171 § 1.]

Additional notes found at www.leg.wa.gov

43.83B.405 Drought advisories—Orders of drought emergency—Procedure. (1) Whenever it appears to the department, based on the definitions of drought condition and normal water supply set forth in RCW 43.83B.011, that drought conditions may develop, the department may issue a drought advisory. The drought advisory should seek to increase the awareness and readiness of affected water users and may recommend voluntary actions to alleviate drought impacts.

(2)(a) Whenever it appears to the department, based on the definitions of drought condition and normal water supply set forth in RCW 43.83B.011, that a drought condition either exists or is forecast to occur within the state or portions thereof, the department is authorized to issue orders of drought emergency, pursuant to adopted rules, to implement the powers as set forth in RCW 43.83B.410 through 43.83B.420.

(b) Prior to the issuance of an order of drought emergency, the department shall:

(i) Consult with the federal and state government entities identified in the drought contingency plan periodically revised by the department pursuant to RCW 43.83B.440 and consult with affected federally recognized tribes;

(ii) Consider input from local water users, including nursery and landscape professionals, in the determination of undue hardship under RCW 43.83B.011(2); and

(iii) Obtain the written approval of the governor.

(c) Upon issuance of an order of drought emergency, the department shall notify the public of the order consistent with rules adopted by the department.

(d) Orders of drought emergency issued under (a) of this subsection shall be deemed orders for the purposes of chapter 34.05 RCW.

(e) A person may petition the department to declare a drought emergency for the state or portions of the state. The department may review a petition, but any order of drought emergency issued after receipt of a petition must be based on the definitions of drought condition and normal water supply

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set forth in RCW 43.83B.011, and must be issued according to the procedure set forth in this section. The department must not rely exclusively on information presented in a petition when determining whether to issue an order of drought emergency.

(3)(a) Any order issued under subsection (2) of this section shall contain a termination date for the order. The termination date shall be not later than one calendar year from the date the order is issued. Although the department may, with the written approval of the governor, change the termination date by amending the order, no such amendment or series of amendments may have the effect of extending its termination to a date which is later than two calendar years after the issuance of the order.

(b) The provisions of this section do not preclude the issuance of more than one order under subsection (2) of this section for different areas of the state, or sequentially for the same area, as the need arises. [2020 c 168 § 3; 1989 c 171 § 2.]

Additional notes found at www.leg.wa.gov

43.83B.410 Drought emergencies—Withdrawals and diversions—Agreements. Upon the issuance of an order of drought emergency under RCW 43.83B.405(2), the department may:

(1)(a) Authorize emergency withdrawal of public surface and ground waters, including dead storage within reservoirs, on a temporary basis and authorize temporary or permanent associated physical works. The department shall prioritize the approval of emergency withdrawal authorizations in order to address those most affected by the water deficit to ensure the survival of irrigated crops, the state's fisheries, and the provision of water for small communities.

(b) The termination date for emergency withdrawals may not be later than the termination date of the order issued under RCW 43.83B.405(2).

(c) The department may issue emergency withdrawal authorizations only when, after investigation and after providing appropriate federal, state, and local governmental bodies and affected federally recognized tribes an opportunity to comment, the following are found:

(i) The waters proposed for withdrawal are to be used for a beneficial use involving a previously established activity or purpose;

(ii) The previously established activity or purpose was furnished water through rights applicable to the use of a public body of water that cannot be exercised due to the lack of water arising from natural drought conditions; and

(iii) The proposed withdrawal will not reduce flows or levels below essential minimums necessary to ensure the maintenance of fisheries requirements and to protect federal and state interests including, among others, power generation, navigation, and existing water rights.

(d) All emergency withdrawal authorizations issued under this section shall contain provisions that allow for termination of withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in (c)(iii) of this subsection.

(e) As to water withdrawal and associated works authorized under this subsection, the requirements of chapter 43.21C RCW and public bidding requirements as otherwise

provided by law are waived and inapplicable. All state and local agencies with authority to issue permits or other authorizations for such works shall, to the extent possible, expedite the processing of the permits or authorizations in keeping with the emergency nature of the requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. All state departments or other agencies having jurisdiction over state or other public lands, if such lands are necessary to effectuate the withdrawal authorizations issued under this subsection, shall provide short-term easements or other appropriate property interest upon the payment of the fair market value. This mandate shall not apply to any lands of the state that are reserved for a special purpose or use that cannot properly be carried out if the property interest were conveyed;

(2) Approve a temporary change in purpose, place of use, point of diversion, or point of withdrawal, consistent with existing state policy allowing transfer or lease of waters between willing parties, as provided for in RCW 90.03.380, 90.03.390, and 90.44.100. However, compliance with any requirements of notice of newspaper publication of these sections or the state environmental policy act under chapter 43.21C RCW, is not required when such changes are necessary to respond to drought conditions as determined by the department. An approval of a temporary change of a water right as authorized under this subsection is not admissible as evidence in either supporting or contesting the validity of water claims in a general adjudication under RCW 90.03.210 or any similar proceeding where the existence of a water right is at issue;

(3) Employ additional persons for specified terms of time, consistent with the term of a drought condition, as are necessary to ensure the successful performance of the activities associated with implementing the emergency drought program of this chapter;

(4) Acquire needed emergency drought-related equipment;

(5) Enter into agreements with applicants receiving emergency withdrawal authorizations established under this section to recover the costs, or a portion thereof, of mitigation for emergency withdrawal authorizations, provided that mitigation is done to protect instream flows, federally regulated flows, or senior water rights. The department may establish the specifics of cost recovery by rule, based on the amount of water used in the emergency withdrawal, which shall not exceed the cost of mitigation; and

(6) Enter into interagency agreements as authorized under chapter 39.34 RCW to partner in emergency drought response. [2020 c 168 § 4; 1989 c 171 § 3.]

Additional notes found at www.leg.wa.gov

43.83B.415 Grants to public entities. (1)(a) The department is authorized to issue grants to eligible public entities to reduce current or future hardship caused by water unavailability stemming from drought conditions. No single entity may receive more than twenty-five percent of the total funds available. The department is not obligated to fund projects that do not provide sufficient benefit to alleviating hardship caused by drought or water unavailability. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs.

[Title 43 RCW—page 502]

(b) Except for projects for public water systems serving economically disadvantaged communities, the department may only fund up to fifty percent of the total eligible cost of the project. Money used by applicants as a cash match may not originate from other state funds.

(c) For the purposes of this chapter, eligible public entities include only:

(i) Counties, cities, and towns;

(ii) Water and sewer districts formed under chapter 57.02 RCW;

(iii) Public utility districts formed under chapter 54.04 RCW;

(iv) Port districts formed under chapter 53.04 RCW;

(v) Conservation districts formed under chapter 89.08 RCW;

(vi) Irrigation districts formed under chapter 87.03 RCW;

(vii) Watershed management partnerships formed under RCW 39.34.200; and

(viii) Federally recognized tribes.

(2) Grants may be used to develop projects that enhance the ability of water users to effectively mitigate for the impacts of water unavailability arising from drought. Project applicants must demonstrate that the projects will increase their resiliency, preparedness, or ability to withstand drought conditions when they occur. Projects may include, but are not limited to:

(a) Creation of additional water storage;

(b) Implementation of source substitution projects;

(c) Development of alternative, backup, or emergency water supplies or interties;

(d) Installation of infrastructure or creation of educational programs that improve water conservation and efficiency or promote use of reclaimed water;

(e) Development or update of local drought contingency plans if not already required by state rules adopted under chapter 246-290 WAC;

(f) Mitigation of emergency withdrawals authorized under RCW 43.83B.410(1);

(g) Projects designed to mitigate for the impacts of water supply shortages on fish and wildlife; and

(h) Emergency construction or modification of water recreational facilities.

(3) During a drought emergency order pursuant to RCW 43.83B.405(2), the department shall prioritize funding for projects designed to relieve the immediate hardship caused by water unavailability. [2020 c 168 § 5; 1989 c 171 § 4.]

Additional notes found at www.leg.wa.gov

43.83B.420 Rules. The department shall adopt such rules as are necessary to ensure the successful implementation of this chapter. [1989 c 171 § 5.]

Additional notes found at www.leg.wa.gov

43.83B.425 Applicability—Construction. Nothing in this chapter shall:

(1) Authorize any interference whatsoever with existing water rights;

(2) Authorize the establishment of rights to withdrawal of waters of a permanent nature or of rights with any priority;

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(3) Authorize the establishment of a water right under RCW 90.03.250 or 90.44.060;

(4) Preclude any person from filing an application pursuant to RCW 90.03.250 or 90.44.060. [1989 c 171 § 6.]

Additional notes found at www.leg.wa.gov

43.83B.430 State drought preparedness and response account. The state drought preparedness and response account is created in the state treasury. All receipts from appropriated funds designated for the account and all cost recovery revenues collected under RCW 43.83B.410(5) must be deposited into the account. Expenditures from the account may be used for drought preparedness and response activities under this chapter, including grants issued under RCW 43.83B.415. During the 2021-2023 fiscal biennium, moneys in the account may be used for water banking pilot projects. Moneys in the account may be spent only after appropriation. During the 2021-2023 fiscal biennium, the legislature may appropriate moneys from the account for activities related to water banking. [2022 c 297 § 957; 2022 c 296 § 7008; 2020 c 168 § 6; 2016 sp.s. c 36 § 933; 2011 c 5 § 911; 2002 c 371 § 910; 1999 c 379 § 921.]

Reviser's note: This section was amended by 2022 c 296 § 7008 and by 2022 c 297 § 957, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2022 c 297: See note following RCW 43.79.565.

Effective date—2022 c 296: See note following RCW 43.63A.125.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Additional notes found at www.leg.wa.gov

43.83B.440 Drought contingency plan revision. In collaboration with affected governments, the department may revise the existing drought contingency plan. The department shall notify interested parties of any updates to the drought contingency plan. [2020 c 168 § 7.]

43.83B.450 Long-term water right lease agreements—Pilot program. (Expires June 30, 2025.) (1) The department shall initiate a pilot program in a selected basin or basins to explore the cost, feasibility, and benefits of entering into long-term water right lease agreements. The purpose of the agreements is to alleviate water supply conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival. Under this program, the department is authorized to negotiate and enter into contractual agreements before a drought emergency is declared under RCW 43.83B.405(2) that identify projects, measures, sources of water, and other resources that may be accessed during times of water shortage. Water right changes executed under agreement under this section are subject to the requirements of RCW 90.03.380.

(2) The department shall submit a report to the legislature by December 31, 2024, on the results of the pilot program. The department shall include a summary of the contracts entered into pursuant to this section and recommendations to the legislature.

(3) This section expires June 30, 2025. [2020 c 168 § 8.]

43.83B.901 Severability—1977 ex.s. c 1. If any provision of this 1977 amendatory act, or its application to any per-

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son or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 1 § 19.]

**Chapter 43.83F RCW
CAPITOL FACILITIES REVENUE BONDS, 1969—
EAST CAPITOL SITE BONDS, 1969**

Sections

- 43.83F.010 Refunding bonds—Issuance—Authorization.
- 43.83F.020 Refunding bonds—Powers and duties of state finance committee.
- 43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception.
- 43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state.
- 43.83F.050 Refunding bonds—Legislature may provide additional means for payment.
- 43.83F.060 Refunding bonds—Legal investment for state and other public bodies.

43.83F.010 Refunding bonds—Issuance—Authorization. The state finance committee is authorized to issue general obligation bonds of the state in the amount of twenty-one million dollars, or so much thereof as may be required to refund, at or prior to maturity, the outstanding "State of Washington Capitol Facilities Revenue Bonds, 1969", dated October 1, 1969, and the outstanding "State of Washington East Capitol Site Bonds, 1969", dated October 1, 1969, and to pay any premium payable with respect thereto and all interest thereon, and to pay all costs incidental thereto and to the issuance of the bonds authorized by this chapter. The bonds authorized by this chapter shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the state Constitution. [1974 ex.s. c 113 § 1.]

43.83F.020 Refunding bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds. Such bonds shall be payable at such places as the committee may provide. [1974 ex.s. c 113 § 2.]

43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception. The proceeds from the sale of bonds authorized by this chapter shall be set aside for the payment of the bonds to be refunded in accordance with chapter 39.53 RCW, except that investment and reinvestment thereof shall be limited to direct obligations of the United States of America. [1974 ex.s. c 113 § 3.]

43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state. The state building refunding bond redemption fund is

hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by this chapter. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of this chapter shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1974 ex.s. c 113 § 4.]

43.83F.050 Refunding bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1974 ex.s. c 113 § 5.]

43.83F.060 Refunding bonds—Legal investment for state and other public bodies. The bonds authorized in this chapter shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1974 ex.s. c 113 § 6.]

Chapter 43.84 RCW

INVESTMENTS AND INTERFUND LOANS

Sections

43.84.031	Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities.
43.84.041	Management of permanent funds—Disposition of securities.
43.84.051	Management of permanent funds—Collection of interest, income and principal of securities—Disposition.
43.84.061	Management of permanent funds in accordance with established standards.
43.84.080	Investment of current state funds.
43.84.092	Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited.
43.84.095	Exemption from reserve fund—Motor vehicle fund income from United States securities.
43.84.120	Investment in state warrants.
43.84.130	Separate accounting as to permanent school fund.
43.84.140	Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds.
43.84.150	Authority of state investment board to invest, reinvest, manage investments acquired.
43.84.160	Investment counseling fees payable from earnings.
43.84.170	Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund.
43.84.180	Public works assistance account earnings—Share to public facilities construction loan revolving account.

Community renewal bonds: RCW 35.81.110.

Federal home owner's loan corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

Firefighters' pension board, investments by: RCW 41.16.040.

Highway construction bonds, investment in: Chapter 47.10 RCW.

[Title 43 RCW—page 504]

Housing authority bonds, authorized as legal investments: RCW 35.82.220.

Industrial insurance funds: Chapter 51.44 RCW.

Investment accounting: RCW 43.33A.180.

Judicial retirement—Investment for supplemental retirement: RCW 2.14.080.

Metropolitan municipal corporation obligations, authorized for public deposits: RCW 35.58.510.

Mutual savings banks, investments in state bonds: RCW 32.20.050.

Port district toll facility bonds and notes as legal investments: RCW 53.34.150.

Public utility district revenue obligations as legal investments: RCW 54.24.120.

School building construction bonds: Chapter 28A.525 RCW.

Schools and school districts' bonds, investment of permanent school fund in: State Constitution Art. 16 § 5.

Statewide city employees' retirement system funds: RCW 41.44.100.

United States corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

43.84.031 Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities. Subject to the limitation of authority delegated by RCW 43.84.031 through 43.84.061 and RCW 43.84.150, the state investment board shall adopt procedural policies governing the management of said permanent trust funds. [1981 c 3 § 17; 1973 1st ex.s. c 103 § 5; 1965 ex.s. c 104 § 3.]

State investment board: Chapter 43.33A RCW.

Additional notes found at www.leg.wa.gov

43.84.041 Management of permanent funds—Disposition of securities. All securities purchased or held on behalf of said funds, shall be held and disbursed through the state treasury and shall be in the physical custody of the state treasurer, who may deposit with the fiscal agent of the state, or with a state depository, such of said securities as he or she shall consider advisable to be held in safekeeping by said agent or bank for collection of principal and interest, or of the proceeds of sale thereof. [2009 c 549 § 5160; 1965 ex.s. c 104 § 4.]

43.84.051 Management of permanent funds—Collection of interest, income and principal of securities—Disposition. It shall be the duty of the state treasurer to collect the interest, or other income on, and the principal of the securities held in his or her custody pursuant to RCW 43.84.041 as the said sums become due and payable, and to pay the same when so collected into the respective funds to which the principal and interest shall accrue, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160. [1991 sp.s. c 13 § 93; 1965 ex.s. c 104 § 5.]

Additional notes found at www.leg.wa.gov

43.84.061 Management of permanent funds in accordance with established standards. Any investments made hereunder by the state investment board shall be made in accordance with the standards established in RCW 43.33A.140. [1998 c 14 § 3; 1965 ex.s. c 104 § 6.]

43.84.080 Investment of current state funds. Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following:

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States or United States dollar denominated bonds, notes, or other obligations that are issued or guaranteed by supranational institutions, provided that, at the time of investment, the institution has the United States government as its largest shareholder;

(2) In state, county, municipal, or school district bonds, notes, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(4) Bankers' acceptances purchased on the secondary market;

(5) Commercial paper purchased on the secondary market, provided that the state treasurer adheres to the investment policies and procedures adopted by the state investment board;

(6) General obligation bonds of any state and general obligation bonds of local governments of other states, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognized rating agency; and

(7) Corporate notes purchased on the secondary market, provided that the state treasurer adheres to the investment policies and procedures adopted by the state investment board. [2016 c 152 § 18; 1982 c 148 § 1; 1981 c 3 § 18; 1979 ex.s. c 154 § 1; 1975 1st ex.s. c 4 § 1; 1971 c 16 § 1; 1967 c 211 § 1; 1965 c 8 § 43.84.080. Prior: 1961 c 281 § 11; 1955 c 197 § 1; 1935 c 91 § 1; RRS § 5508-1.]

Motor vehicle fund warrants for state highway acquisition: RCW 47.12.180 through 47.12.240.

Additional notes found at www.leg.wa.gov

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited. (Effective until July 1, 2024.) (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chap-

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ter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College

capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond

retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [2022 c 182 § 403; 2021 c 199 § 504; (2021 c 199 § 503 expired July 1, 2021). Prior: 2020 c 354 § 11; 2020 c 221 § 5; 2020 c 148 § 3; 2020 c 103 § 7; 2020 c 18 § 3; prior: 2019 c 421 § 15; 2019 c 403 § 14; 2019 c 365 § 19; 2019 c 287 § 19; 2019 c 95 § 6; prior: 2018 c 287 § 7; 2018 c 275 § 10; 2018 c 203 § 14; prior: 2017 3rd sp.s. c 25 § 50; 2017 3rd sp.s. c 12 § 12; 2017 c 290 § 8; prior: 2016 c 194 § 5; 2016 c 161 § 20; 2016 c 112 § 4; prior: 2015 3rd sp.s. c 44 § 107; 2015 3rd sp.s. c 12 § 3; prior: 2014 c 112 § 106; 2014 c 74 § 5; 2014 c 32 § 6; prior: 2013 2nd sp.s. c 23 § 24; 2013 2nd sp.s. c 11 § 15; 2013 2nd sp.s. c 1 § 15; prior: 2013 c 251 § 3; 2013 c 96 § 3; 2012 c 198 § 2; 2012 c 196 § 7; 2012 c 187 § 14; 2012 c 83 § 4; prior: 2011 1st sp.s. c 16 § 6; 2011 1st sp.s. c 7 § 22; 2011 c 369 § 6; 2011 c 339 § 1; 2011 c 311 § 9; 2011 c 272 § 3; 2011 c 120 § 3; 2011 c 83 § 7; prior: 2010 1st sp.s. c 30 § 20; 2010 1st sp.s. c 9 § 7; 2010 c 248 § 6; 2010 c 222 § 5; 2010 c 162 § 6; 2010 c 145 § 11; prior: 2009 c 479 § 31; 2009 c 472 § 5; 2009 c 451 § 8; (2009 c 451 § 7 expired July 1, 2009); prior: 2008 c 128 § 19; 2008 c 106 § 4; (2008 c 106 § 3 expired July 1, 2009); (2008 c 106 § 2 expired July 1, 2008); prior: 2007 c 514 § 3; 2007 c 513 § 1; 2007 c 484 § 4; 2007 c 356 § 9; prior: 2006 c 337 § 11; (2006 c 337 § 10 expired July 1, 2006); 2006 c 311 § 23; (2006 c 311 § 22 expired July 1, 2006); 2006 c 171 § 10; (2006 c 171 § 9 expired July 1, 2006); 2006 c 56 § 10; (2006 c 56 § 9 expired July 1, 2006); 2006 c 6 § 8; prior: 2005 c 514 § 1106; 2005 c

353 § 4; 2005 c 339 § 23; 2005 c 314 § 110; 2005 c 312 § 8; 2005 c 94 § 2; 2005 c 83 § 5; prior: (2005 c 353 § 2 expired July 1, 2005); 2004 c 242 § 60; prior: 2003 c 361 § 602; 2003 c 324 § 1; 2003 c 150 § 2; 2003 c 48 § 2; prior: 2002 c 242 § 2; 2002 c 114 § 24; 2002 c 56 § 402; prior: 2001 2nd sp.s. c 14 § 608; (2001 2nd sp.s. c 14 § 607 expired March 1, 2002); 2001 c 273 § 6; (2001 c 273 § 5 expired March 1, 2002); 2001 c 141 § 3; (2001 c 141 § 2 expired March 1, 2002); 2001 c 80 § 5; (2001 c 80 § 4 expired March 1, 2002); 2000 2nd sp.s. c 4 § 6; prior: 2000 2nd sp.s. c 4 § 5; (2000 2nd sp.s. c 4 §§ 3, 4 expired September 1, 2000); 2000 c 247 § 702; 2000 c 79 § 39; (2000 c 79 §§ 37, 38 expired September 1, 2000); prior: 1999 c 380 § 9; 1999 c 380 § 8; 1999 c 309 § 929; (1999 c 309 § 928 expired September 1, 2000); 1999 c 268 § 5; (1999 c 268 § 4 expired September 1, 2000); 1999 c 94 § 4; (1999 c 94 §§ 2, 3 expired September 1, 2000); 1998 c 341 § 708; 1997 c 218 § 5; 1996 c 262 § 4; prior: 1995 c 394 § 1; 1995 c 122 § 12; prior: 1994 c 2 § 6 (Initiative Measure No. 601, approved November 2, 1993); 1993 sp.s. c 25 § 511; 1993 sp.s. c 8 § 1; 1993 c 500 § 6; 1993 c 492 § 473; 1993 c 445 § 4; 1993 c 329 § 2; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Expiration date—2022 c 182 §§ 311 and 403: See note following RCW 82.70.040.

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Expiration date—2021 c 199 § 503: "Section 503 of this act expires July 1, 2021." [2021 c 199 § 606.]

Expiration date—2021 c 199 § 504: "Section 504 of this act expires July 1, 2024." [2021 c 199 § 608.]

Effective date—2021 c 199 §§ 105 and 503: See note following RCW 83.100.230.

Effective date—2021 c 199 §§ 201, 202, 301, 309, and 504: See note following RCW 43.216.1368.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Effective date—Expiration date—2020 c 354: See RCW 74.70.900 and 74.70.901.

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Findings—Intent—Effective date—2020 c 103: See notes following RCW 28B.10.423.

Explanatory statement—2020 c 18: See note following RCW 43.79A.040.

Intent—Effective date—2019 c 421: See notes following RCW 47.10.896.

Finding—Intent—Effective date—2019 c 403: See notes following RCW 46.04.071.

Findings—2019 c 365: See note following RCW 43.330.532.

Effective date—2019 c 287: See note following RCW 82.29A.125.

Findings—Intent—2019 c 287: See note following RCW 28B.30.903.

Intent—2019 c 95: See note following RCW 70A.305.170.

Findings—Implementation—Effective date—2018 c 287: See notes following RCW 46.55.400.

Finding—Intent—2018 c 203: See note following RCW 28B.85.095.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

Contingent expiration date—2015 3rd sp.s. c 44 § 107: "Section 107 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2015 3rd sp.s. c 44 § 429.]

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

(2022 Ed.)

Contingent expiration date—2015 3rd sp.s. c 12 § 3: "Section 3 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2015 3rd sp.s. c 12 § 5.]

Effective date—2015 3rd sp.s. c 12: See note following RCW 47.01.480.

Contingent expiration date—2014 c 112 § 106: "Section 106 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2014 c 112 § 501.]

Contingent expiration date—2014 c 74 § 5: "Section 5 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2014 c 74 § 9.]

Contingent expiration date—2014 c 32 § 6: "Section 6 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2014 c 32 § 8.]

Contingent expiration date—2013 2nd sp.s. c 23 § 24: "Section 24 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 2nd sp.s. c 23 § 29.]

Finding—Intent—2013 2nd sp.s. c 23: See note following RCW 46.09.442.

Effective date—2013 2nd sp.s. c 23: See note following RCW 46.09.310.

Contingent expiration date—2013 2nd sp.s. c 11 § 15: "Section 15 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 2nd sp.s. c 11 § 17.]

Contingent expiration date—2013 2nd sp.s. c 1 § 15: "Section 15 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 2nd sp.s. c 1 § 17.]

Findings—Intent—Effective date—2013 2nd sp.s. c 1: See notes following RCW 70A.305.020.

Contingent expiration date—2013 c 251 § 3: "Section 3 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 c 251 § 15.]

Residual balance of funds—Effective date—2013 c 251: See notes following RCW 41.06.280.

Contingent expiration date—2013 c 96 § 3: "Section 3 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 c 96 § 5.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Finding—Intent—2012 c 83: See note following RCW 47.56.862.

Finding—Contingent effective date—Notice of certification and toll rate agreements—2012 c 36: See notes following RCW 47.56.810.

Purpose—Findings—Intent—Severability—Effective date—2011 1st sp.s. c 7: See RCW 74.48.005, 74.48.900, and 74.48.901.

Intent—2011 c 369: See note following RCW 47.56.880.

Intent—2010 c 222: See note following RCW 43.08.150.

Intent—Effective date—2009 c 472: See notes following RCW 47.56.870.

Effective date—Intent—2009 c 451: See notes following RCW 43.325.030.

Findings—2006 c 311: See note following RCW 36.120.020.

Intent—Captions—2005 c 312: See notes following RCW 47.56.401.

Findings—Effective dates—2005 c 83: See notes following RCW 47.26.340.

Findings—2003 c 361: See note following RCW 82.38.030.

Findings—Intent—2003 c 150; 2002 c 242: "The legislature finds that the community economic revitalization board plays a valuable and unique role in stimulating and diversifying local economies, attracting private investment, creating new jobs, and generating additional state and local tax revenues by investing in public facilities projects that result in new or expanded economic development. The legislature also finds that it is in the best interest of the state and local communities to secure a stable and dedicated source of funds for the community economic revitalization board. It is the intent of the legislature to establish an ongoing funding source for the community economic revitalization board that will be used exclusively to advance economic development infrastructure. This act provides a partial funding solution by directing that beginning July 1, 2005, the interest earnings generated by the public works assistance account shall be used to fund

the community economic revitalization board's financial assistance programs. These funds are not for use other than for the stated purpose and goals of the community economic revitalization board." [2003 c 150 § 1; 2002 c 242 § 1.]

Finding—Intent—2002 c 114: See RCW 47.46.011.

Purpose—2001 c 141: "This act is needed to comply with federal law, which is the source of funds in the drinking water assistance account, used to fund the Washington state drinking water loan program as part of the federal safe drinking water act." [2001 c 141 § 1.]

Findings—Intent—2001 c 80: See note following RCW 43.70.040.

Legislative finding—1999 c 94: "The legislature finds that a periodic review of the accounts and their uses is necessary. While creating new accounts may facilitate the implementation of legislative intent, the creation of too many accounts limits the effectiveness of performance-based budgeting. Too many accounts also limit the flexibility of the legislature to address emerging and changing issues in addition to creating administrative burdens for the responsible agencies. Accounts created for specific purposes may no longer be valid or needed. Accordingly, this act eliminates accounts that are not in use or are unneeded and consolidates accounts that are similar in nature." [1999 c 94 § 1.]

Findings—Effective date—1997 c 218: See notes following RCW 70A.120.030.

Transportation infrastructure account—Highway infrastructure account—Finding—Intent—Purpose—1996 c 262: See RCW 82.44.195.

Declaration—Intent—Purpose—1995 c 122: See RCW 59.21.006.

Findings—Intent—1993 sp.s. c 25: See note following RCW 82.45.010.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Additional notes found at www.leg.wa.gov

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited. (Effective July 1, 2024.) (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is

required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead

WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances

of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [2022 c 182 § 404; 2021 c 199 § 505. Prior: 2020 c 221 § 5; 2020 c 148 § 3; 2020 c 103 § 7; 2020 c 18 § 3; prior: 2019 c 421 § 15; 2019 c 403 § 14; 2019 c 365 § 19; 2019 c 287 § 19; 2019 c 95 § 6; prior: 2018 c 287 § 7; 2018 c 275 § 10; 2018 c 203 § 14; prior: 2017 3rd sp.s. c 25 § 50; 2017 3rd sp.s. c 12 § 12; 2017 c 290 § 8; prior: 2016 c 194 § 5; 2016 c 161 § 20; 2016 c 112 § 4; prior: 2015 3rd sp.s. c 44 § 107; 2015 3rd sp.s. c 12 § 3; prior: 2014 c 112 § 106; 2014 c 74 § 5; 2014 c 32 § 6; prior: 2013 2nd sp.s. c 23 § 24; 2013 2nd sp.s. c 11 § 15; 2013 2nd sp.s. c 1 § 15; prior: 2013 c 251 § 3; 2013 c 96 § 3; 2012 c 198 § 2; 2012 c 196 § 7; 2012 c 187 § 14; 2012 c 83 § 4; prior: 2011 1st sp.s. c 16 § 6; 2011 1st sp.s. c 7 § 22; 2011 c 369 § 6; 2011 c 339 § 1; 2011 c 311 § 9; 2011 c 272 § 3; 2011 c 120 § 3; 2011 c 83 § 7; prior: 2010 1st sp.s. c 30 § 20; 2010 1st sp.s. c 9 § 7; 2010 c 248 § 6; 2010 c 222 § 5; 2010 c 162 § 6; 2010 c 145 § 11; prior: 2009 c 479 § 31; 2009 c 472 § 5; 2009 c 451 § 8; (2009 c 451 § 7 expired July 1, 2009); prior: 2008 c 128 § 19; 2008 c 106 § 4; (2008 c 106 § 3 expired July 1, 2009); (2008 c 106 § 2 expired July 1, 2008); prior: 2007 c 514 § 3; 2007 c 513 § 1; 2007 c 484 § 4; 2007 c 356 § 9; prior: 2006 c 337 § 11; (2006 c 337 § 10 expired July 1, 2006); 2006 c 311 § 23; (2006 c 311 § 22 expired July 1, 2006); 2006 c 171 § 10; (2006 c 171 § 9 expired July 1, 2006); 2006 c 56 § 10; (2006 c 56 § 9 expired July 1, 2006); 2006 c 6 § 8; prior: 2005 c 514 § 1106; 2005 c 353 § 4; 2005 c 339 § 23; 2005 c 314 § 110; 2005 c 312 § 8; 2005 c 94 § 2; 2005 c 83 § 5; prior: (2005 c 353 § 2 expired July 1, 2005); 2004 c 242 § 60; prior: 2003 c 361 § 602; 2003 c 324 § 1; 2003 c 150 § 2; 2003 c 48 § 2; prior: 2002 c 242 § 2; 2002 c 114 § 24; 2002 c 56 § 402; prior: 2001 2nd sp.s. c 14 § 608; (2001 2nd sp.s. c 14 § 607 expired March 1, 2002); 2001 c 273 § 6; (2001 c 273 § 5 expired March 1, 2002); 2001 c 141 § 3; (2001 c 141 § 2 expired March 1, 2002); 2001 c 80 § 5; (2001 c 80 § 4 expired March 1, 2002); 2000 2nd sp.s. c 4 § 6; prior: 2000 2nd sp.s. c 4 § 5; (2000 2nd sp.s. c 4 §§ 3, 4 expired September 1, 2000); 2000 c 247 § 702; 2000 c 79 § 39; (2000 c 79 §§ 37, 38 expired September 1, 2000); prior: 1999 c 380 § 9; 1999 c 380 § 8; 1999 c 309 § 929; (1999 c 309 § 928 expired September 1, 2000); 1999 c 268 § 5; (1999 c 268 § 4 expired September 1, 2000); 1999 c 94 § 4; (1999 c 94 §§ 2, 3 expired September 1, 2000); 1998 c 341 § 708; 1997 c 218 § 5; 1996 c 262 § 4; prior: 1995 c 394 § 1; 1995 c 122 § 12; prior: 1994 c 2 § 6 (Initiative Measure No. 601, approved November 2, 1993); 1993 sp.s. c 25 § 511; 1993 sp.s. c 8 § 1; 1993 c 500 § 6; 1993 c 492 § 473; 1993 c 445 § 4; 1993 c 329 § 2; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c

13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Effective date—2022 c 182 § 404: "Section 404 of this act takes effect July 1, 2024." [2022 c 182 § 504.]

Intent—2022 c 182: See note following RCW 70A.65.240.

Effective date—2021 c 199 § 505: "Section 505 of this act takes effect July 1, 2024." [2021 c 199 § 609.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Intent—Effective date—2020 c 148: See notes following RCW 77.12.170.

Findings—Intent—Effective date—2020 c 103: See notes following RCW 28B.10.423.

Explanatory statement—2020 c 18: See note following RCW 43.79A.040.

Intent—Effective date—2019 c 421: See notes following RCW 47.10.896.

Finding—Intent—Effective date—2019 c 403: See notes following RCW 46.04.071.

Findings—2019 c 365: See note following RCW 43.330.532.

Effective date—2019 c 287: See note following RCW 82.29A.125.

Findings—Intent—2019 c 287: See note following RCW 28B.30.903.

Intent—2019 c 95: See note following RCW 70A.305.170.

Findings—Implementation—Effective date—2018 c 287: See notes following RCW 46.55.400.

Finding—Intent—2018 c 203: See note following RCW 28B.85.095.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

Contingent expiration date—2015 3rd sp.s. c 44 § 107: "Section 107 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2015 3rd sp.s. c 44 § 429.]

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

Contingent expiration date—2015 3rd sp.s. c 12 § 3: "Section 3 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2015 3rd sp.s. c 12 § 5.]

Effective date—2015 3rd sp.s. c 12: See note following RCW 47.01.480.

Contingent expiration date—2014 c 112 § 106: "Section 106 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2014 c 112 § 501.]

Contingent expiration date—2014 c 74 § 5: "Section 5 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2014 c 74 § 9.]

Contingent expiration date—2014 c 32 § 6: "Section 6 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2014 c 32 § 8.]

Contingent expiration date—2013 2nd sp.s. c 23 § 24: "Section 24 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 2nd sp.s. c 23 § 29.]

Finding—Intent—2013 2nd sp.s. c 23: See note following RCW 46.09.442.

Effective date—2013 2nd sp.s. c 23: See note following RCW 46.09.310.

Contingent expiration date—2013 2nd sp.s. c 11 § 15: "Section 15 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 2nd sp.s. c 11 § 17.]

Contingent expiration date—2013 2nd sp.s. c 1 § 15: "Section 15 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 2nd sp.s. c 1 § 17.]

Findings—Intent—Effective date—2013 2nd sp.s. c 1: See notes following RCW 70A.305.020.

Contingent expiration date—2013 c 251 § 3: "Section 3 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 c 251 § 15.]

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Residual balance of funds—Effective date—2013 c 251: See notes following RCW 41.06.280.

Contingent expiration date—2013 c 96 § 3: "Section 3 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met." [2013 c 96 § 5.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Finding—Intent—2012 c 83: See note following RCW 47.56.862.

Finding—Contingent effective date—Notice of certification and toll rate agreements—2012 c 36: See notes following RCW 47.56.810.

Purpose—Findings—Intent—Severability—Effective date—2011 1st sp.s. c 7: See RCW 74.48.005, 74.48.900, and 74.48.901.

Intent—2011 c 369: See note following RCW 47.56.880.

Intent—2010 c 222: See note following RCW 43.08.150.

Intent—Effective date—2009 c 472: See notes following RCW 47.56.870.

Effective date—Intent—2009 c 451: See notes following RCW 43.325.030.

Findings—2006 c 311: See note following RCW 36.120.020.

Intent—Captions—2005 c 312: See notes following RCW 47.56.401.

Findings—Effective dates—2005 c 83: See notes following RCW 47.26.340.

Findings—2003 c 361: See note following RCW 82.38.030.

Findings—Intent—2003 c 150; 2002 c 242: "The legislature finds that the community economic revitalization board plays a valuable and unique role in stimulating and diversifying local economies, attracting private investment, creating new jobs, and generating additional state and local tax revenues by investing in public facilities projects that result in new or expanded economic development. The legislature also finds that it is in the best interest of the state and local communities to secure a stable and dedicated source of funds for the community economic revitalization board. It is the intent of the legislature to establish an ongoing funding source for the community economic revitalization board that will be used exclusively to advance economic development infrastructure. This act provides a partial funding solution by directing that beginning July 1, 2005, the interest earnings generated by the public works assistance account shall be used to fund the community economic revitalization board's financial assistance programs. These funds are not for use other than for the stated purpose and goals of the community economic revitalization board." [2003 c 150 § 1; 2002 c 242 § 1.]

Finding—Intent—2002 c 114: See RCW 47.46.011.

Purpose—2001 c 141: "This act is needed to comply with federal law, which is the source of funds in the drinking water assistance account, used to fund the Washington state drinking water loan program as part of the federal safe drinking water act." [2001 c 141 § 1.]

Findings—Intent—2001 c 80: See note following RCW 43.70.040.

Legislative finding—1999 c 94: "The legislature finds that a periodic review of the accounts and their uses is necessary. While creating new accounts may facilitate the implementation of legislative intent, the creation of too many accounts limits the effectiveness of performance-based budgeting. Too many accounts also limit the flexibility of the legislature to address emerging and changing issues in addition to creating administrative burdens for the responsible agencies. Accounts created for specific purposes may no longer be valid or needed. Accordingly, this act eliminates accounts that are not in use or are unneeded and consolidates accounts that are similar in nature." [1999 c 94 § 1.]

Findings—Effective date—1997 c 218: See notes following RCW 70A.120.030.

Transportation infrastructure account—Highway infrastructure account—Finding—Intent—Purpose—1996 c 262: See RCW 82.44.195.

Declaration—Intent—Purpose—1995 c 122: See RCW 59.21.006.

Findings—Intent—1993 sp.s. c 25: See note following RCW 82.45.010.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Intent—Effective date—1989 c 419: See notes following RCW 49.2006.

Additional notes found at www.leg.wa.gov

43.84.095 Exemption from reserve fund—Motor vehicle fund income from United States securities. Whenever moneys of the motor vehicle fund shall be invested in bonds, notes, bills or certificates of the United States treasury payable at par upon demand, or within a term not greater than one year, it shall not be necessary to place any portion of the income therefrom in the reserve fund provided for in *RCW 43.84.090. [1965 c 8 § 43.84.095. Prior: 1953 c 56 § 1.]

*Reviser's note: RCW 43.84.090 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

43.84.120 Investment in state warrants. Whenever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, and over and above the amount belonging to the permanent school fund as shown by the separation made by the state treasurer, the state treasurer may invest such portion of such funds or balances over and above that belonging to the permanent school fund in registered warrants of the state of Washington at such times and in such amounts, and may sell them at such times, as he or she deems advisable: PROVIDED, That those funds having statutory authority to make investments are excluded from the provisions of RCW 43.84.120.

Upon such investment being made, the state treasurer shall pay into the appropriate fund the amount so invested, and the warrants so purchased shall be deposited with the state treasurer, who shall collect all interest and principal payments falling due thereon and allocate the same to the proper fund or funds. [2009 c 549 § 5161; 1971 ex.s. c 88 § 4; 1965 c 8 § 43.84.120. Prior: 1951 c 232 § 2.]

Additional notes found at www.leg.wa.gov

43.84.130 Separate accounting as to permanent school fund. For the purposes of RCW 43.84.120 the state treasurer shall make and keep an accounting separation of the amount of cash balances in the state treasury belonging to the permanent school fund. [1965 c 8 § 43.84.130. Prior: 1951 c 232 § 1.]

43.84.140 Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds. The state investment board is authorized to invest moneys in the scientific school permanent fund and the agricultural college permanent fund in regents' revenue bonds issued by the board of regents of Washington State University for the purposes provided for in RCW 28B.10.300 and to invest moneys in the state university permanent fund in regents' revenue bonds issued by the board of regents of the University of Washington for the purposes provided in RCW 28B.10.300. [1981 c 3 § 19; 1965 c 8 § 43.84.140. Prior: 1959 c 150 § 1.]

Additional notes found at www.leg.wa.gov

43.84.150 Authority of state investment board to invest, reinvest, manage investments acquired. When investment authority over a particular fund or account lies with the state investment board, the board shall have full power to invest, reinvest, manage, contract, or sell or

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exchange investments acquired. Investments shall be made in accordance with RCW 43.33A.140 and investment policy duly established and published by the state investment board. [2012 c 187 § 15; 1998 c 14 § 4; 1981 c 98 § 1; 1981 c 3 § 20; 1979 c 119 § 3; 1977 ex.s. c 251 § 5; 1975-'76 2nd ex.s. c 17 § 2. Prior: 1975 1st ex.s. c 252 § 1; 1975 1st ex.s. c 81 § 1; 1973 1st ex.s. c 103 § 12.]

Additional notes found at www.leg.wa.gov

43.84.160 Investment counseling fees payable from earnings. Investment counseling fees established by contract shall be payable from the investment earnings derived from those assets being managed by investment counsel. [1973 1st ex.s. c 103 § 13.]

Additional notes found at www.leg.wa.gov

43.84.170 Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund. Whenever there are surplus moneys available for investment in the permanent common school fund, the agricultural college permanent fund, the normal school permanent fund, the scientific school permanent fund, or the university permanent fund, the state investment board has full power to invest or reinvest such funds in the manner prescribed by RCW 43.84.150 and 28A.515.330, and not otherwise. [2007 c 505 § 4; 1981 c 3 § 21; 1973 1st ex.s. c 103 § 14.]

Intent—Finding—2007 c 505: See note following RCW 28A.515.330.

Agricultural permanent fund: RCW 43.79.130.

Normal school permanent fund: RCW 43.79.160.

Permanent common school fund: State Constitution Art. 9 § 3, RCW 28A.515.300.

Scientific permanent fund: RCW 43.79.110.

State university permanent fund: RCW 43.79.060.

Additional notes found at www.leg.wa.gov

43.84.180 Public works assistance account earnings—Share to public facilities construction loan revolving account. The proportionate share of earnings based on the average daily balance in the public works assistance account shall be placed in the public facilities construction loan revolving fund, provided that during the 2015-2017 biennium the public works assistance account must retain its own interest earnings and costs. [2016 sp.s. c 35 § 6021; 2003 c 150 § 3.]

Effective date—2016 sp.s. c 35: See note following RCW 28B.10.027.

Findings—Intent—2003 c 150; 2002 c 242: See note following RCW 43.84.092.

Additional notes found at www.leg.wa.gov

Chapter 43.85 RCW STATE DEPOSITARIES

Sections

43.85.070	Deposits deemed in state treasury—Liability.
43.85.190	Investment deposits and rate of interest.
43.85.200	Investment deposits and rate of interest—State moneys defined.
43.85.210	Investment deposits and rate of interest—Demand and time accounts authorized.
43.85.220	Investment deposits and rate of interest—Members of federal reserve or federal deposit insurance corporation.

43.85.230 Investment deposits and rate of interest—Term deposit basis. *Public depositories, deposit and investment of public funds: Chapter 39.58 RCW.*

43.85.070 Deposits deemed in state treasury—Liability. The state treasurer may deposit with any qualified public depository which has fully complied with all requirements of law and the regulations of the public deposit protection commission any state moneys in his or her hands or under his or her official control and any sum so on deposit shall be deemed to be in the state treasury, and he or she shall not be liable for any loss thereof resulting from the failure or default of any such depository without fault or neglect on his or her part or on the part of his or her assistants or clerks. [2009 c 549 § 5162; 1969 ex.s. c 193 § 18; 1965 c 8 § 43.85.070. Prior: 1945 c 129 § 2; 1943 c 134 § 1; 1935 c 139 § 3; 1931 c 87 § 2; 1907 c 37 § 4; Rem. Supp. 1945 § 5551.]

Liability of treasurers and state treasurer for losses of deposits: RCW 39.58.140.

Additional notes found at www.leg.wa.gov

43.85.190 Investment deposits and rate of interest. It is the purpose of RCW 43.85.190 through 43.85.230 to authorize the state treasurer to make investment deposits of state moneys or funds in his or her custody in qualified public depositories at a rate of interest permitted by any applicable statute or regulation. [2009 c 549 § 5163; 1983 c 66 § 17; 1983 c 3 § 113; 1969 ex.s. c 193 § 21; 1965 c 8 § 43.85.190. Prior: 1955 c 198 § 1.]

Additional notes found at www.leg.wa.gov

43.85.200 Investment deposits and rate of interest—State moneys defined. All moneys or funds belonging to or in the custody of the state under the control of the state treasurer shall be considered as state moneys or funds. [1965 c 8 § 43.85.200. Prior: 1955 c 198 § 2.]

43.85.210 Investment deposits and rate of interest—Demand and time accounts authorized. The state treasurer may deposit state moneys or funds at interest in any qualified public depository upon a demand or time account basis. [1983 c 66 § 18; 1965 c 8 § 43.85.210. Prior: 1955 c 198 § 3.]

Additional notes found at www.leg.wa.gov

43.85.220 Investment deposits and rate of interest—Members of federal reserve or federal deposit insurance corporation. If state depositories are member banks of the federal reserve system, or are banks the deposits of which, within certain limits, are insured by the federal deposit insurance corporation and, as such, are prohibited by a statute of the United States or by a lawful regulation of the federal reserve system or of the federal deposit insurance corporation, or of any authorized agency of the federal government, from paying interest upon demand deposits of public funds of a state, the payment of interest shall not be required of such depositories to the extent and for the period of time that payment thereof is prohibited. [1965 c 8 § 43.85.220. Prior: 1955 c 198 § 4.]

43.85.230 Investment deposits and rate of interest—Term deposit basis. The state treasurer may deposit moneys

not required to meet current demands upon a term deposit basis not to exceed five years at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the state treasurer and any qualified public depository. [1993 c 512 § 32; 1984 c 177 § 20; 1983 c 66 § 19; 1965 c 8 § 43.85.230. Prior: 1955 c 198 § 5.]

Additional notes found at www.leg.wa.gov

Chapter 43.86A RCW

SURPLUS FUNDS—INVESTMENT PROGRAM

Sections

- 43.86A.010 Finding—Objectives.
- 43.86A.020 Surplus funds held as demand deposits to be limited.
- 43.86A.030 Surplus funds investment program—Available funds—Allocation.
- 43.86A.040 Other investment powers of state treasurer not limited.
- 43.86A.050 Implementation of chapter by state treasurer.
- 43.86A.060 Linked deposit program—Eligible entities—Interest rates—Rule-making authority.
- 43.86A.070 Linked deposit program—Liability.
- 43.86A.080 Linked deposit program—Minority and women's business enterprises—Public depositories' participation.

Public funds, deposit and investment, public depositories: Chapter 39.58 RCW.

43.86A.010 Finding—Objectives. The legislature finds that a procedure should be established for the management of short term treasury surplus funds by the state treasurer in order to insure a maximum return while they are on deposit in public depositories. The objectives of this procedure are to minimize noninterest earning demand deposits and provide fair compensation to financial institutions for services rendered to the state through the investment of state funds in time deposits. [1983 c 66 § 20; 1973 c 123 § 1.]

Additional notes found at www.leg.wa.gov

43.86A.020 Surplus funds held as demand deposits to be limited. After March 19, 1973, the state treasurer shall limit surplus funds held as demand deposits to an amount necessary for current operating expenses including direct warrant redemption payments, investments and revenue collection. The state treasurer may hold such additional funds as demand deposits as he or she deems necessary to insure efficient treasury management. [2009 c 549 § 5164; 1973 c 123 § 2.]

43.86A.030 Surplus funds investment program—Available funds—Allocation. (1)(a) The state treasurer shall make funds available for a surplus funds investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, an amount equal to those funds determined to be available according to this formula for the surplus funds investment program shall be available for deposit in qualified public depositories. These funds shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(b) The funds made available by the treasurer for a surplus funds investment program under (a) of this subsection (1) may be provided from either treasury surplus funds or funds held pursuant to chapter 43.250 RCW.

(2) Of all state funds available under this section, the state treasurer may use up to one hundred seventy-five million dollars per year for the purposes of RCW 43.86A.060(2)(c) (i) and (iii) and up to fifteen million dollars per year for the purposes of RCW 43.86A.060(2)(c)(ii). The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to, deposits, assets, loans, capital structure, investments, or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for the surplus funds investment program as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly.

(4) Deposits and interest accrued thereon made through the surplus funds investment program must be protected against loss pursuant to RCW 39.58.020. [2022 c 99 § 1; 2010 c 139 § 1; 2009 c 384 § 2; 2008 c 187 § 2; 2007 c 500 § 1; 2005 c 302 § 2; 1993 c 512 § 33; 1982 c 74 § 1; 1973 c 123 § 3.]

Intent—2005 c 302: "The legislature intends that funds provided under the linked deposit program shall be used to create jobs and economic opportunity as well as to remedy the problem of a lack of access to capital by minority and women's business enterprises." [2005 c 302 § 1.]

43.86A.040 Other investment powers of state treasurer not limited. Except as provided in RCW 43.86A.020 and 43.86A.030, nothing in this chapter shall be construed as a limitation upon the powers of the state treasurer to determine the amount of surplus treasury funds which may be invested. [2022 c 99 § 2; 1973 c 123 § 4.]

43.86A.050 Implementation of chapter by state treasurer. The state treasurer shall devise the necessary formulae and methodology to implement the provisions of this chapter. Periodically, but at least once every six months, the state treasurer shall review all rules and shall adopt, amend or repeal them as may be necessary. These rules and a list of surplus funds investment allocations shall be published in the treasurer's monthly financial report as required under the provisions of RCW 43.08.150. [2022 c 99 § 3; 1973 c 123 § 5.]

43.86A.060 Linked deposit program—Eligible entities—Interest rates—Rule-making authority. (1) The state treasurer shall establish a linked deposit program for investment of surplus treasury funds in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase an investment instrument that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase an investment instrument that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those:

(a) Having terms that do not exceed ten years;

(b) Where an individual loan does not exceed one million dollars;

(c)(i) That are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW;

(ii) That are made to a veteran-owned business that has received state certification under RCW 43.60A.190; or

(iii) That are made to a community development financial institution that is: (A) Certified by the United States department of the treasury pursuant to 12 U.S.C. Sec. 4701 et seq.; and (B) using that loan to make qualifying loans under (c)(i) of this subsection;

(d) Where the interest rate on the loan to the minority or women's business enterprise or veteran-owned business does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term, except that, if the preference given by the state treasurer to the qualified public depository under subsection (3) of this section is less than two hundred basis points, the qualified public depository may reduce the preference given on the loan by an amount that corresponds to the reduction in preference below two hundred basis points given to the qualified public depository; and

(e) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of surplus funds invested for the linked deposit program, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository, except that the treasurer may lower the amount of the preference to ensure that the effective interest rate on the deposit is not less than zero percent.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW or that a veteran-owned business is no longer certified under RCW 43.60A.190, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise or the veteran-owned business, as applicable.

(5) The office of minority and women's business enterprises has the authority to adopt rules to:

(a) Ensure that when making a qualified loan under the linked deposit program, businesses that have never received a loan under the linked deposit program are given first priority;

(b) Limit the total principal loan amount that any one business receives in qualified loans under the linked deposit program over the lifetime of the businesses;

(c) Limit the total principal loan amount that an owner of one or more businesses receives in qualified loans under the linked deposit program during the owner's lifetime;

(d) Limit the total amount of any one qualified loan made under the linked deposit program; and

(e) Ensure that loans made by community development financial institutions are qualifying loans under subsection (2)(c)(i) of this section. [2022 c 99 § 4. Prior: 2009 c 385 § 3; 2009 c 384 § 1; 2008 c 187 § 3; 2007 c 500 § 2; 2005 c 302 § 3; 2002 c 305 § 1; 1993 c 512 § 30.]

Intent—2005 c 302: See note following RCW 43.86A.030.

Finding—Intent—1993 c 512: "The legislature finds that minority and women's business enterprises have been historically excluded from access to capital in the marketplace. The lack of capital has been a major barrier to the development and expansion of business by various minority groups and women. There has been a significant amount of attention on the capital needs of minority and women's business enterprises. It is the intent of the legislature to remedy the problem of a lack of access to capital by minority and women's business enterprises, and other small businesses by authorizing the state treasurer to operate a program that links state deposits to business loans by financial institutions to minority and women's business enterprises." [1993 c 512 § 29.]

43.86A.070 Linked deposit program—Liability. The state and those acting as its agents are not liable in any manner for payment of the principal or interest on qualifying loans made under RCW 43.86A.060. Any delay in payments or defaults on the part of the borrower does not in any manner affect the deposit agreement between the qualified public depository and the state treasurer. [1993 c 512 § 34.]

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

43.86A.080 Linked deposit program—Minority and women's business enterprises—Public depositories' participation. Public depositories participating in the linked deposit program are encouraged to increase the funds available to certified minority and women's business enterprises by taking full advantage of the linked deposit program loans to qualify for the community reinvestment act community programs under federal law (12 U.S.C. Sec. 2901 et seq.). [2005 c 302 § 4.]

Intent—2005 c 302: See note following RCW 43.86A.030.

Chapter 43.88 RCW

STATE BUDGETING, ACCOUNTING, AND REPORTING SYSTEM

Sections

43.88.005	Finding—Intent.
43.88.010	Purpose—Intent.
43.88.020	Definitions.
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Agreements and transactions between state agencies, charges, credits, transfers, and advances: RCW 39.34.130 through 39.34.170.

Debts owed state: RCW 43.17.240.

Director of financial management: Chapter 43.41 RCW.

Expenditure limit under Initiative 601: Chapter 43.135 RCW.

Funds subject to council for children and families: RCW 43.121.100.

Investments and interfund loans: Chapter 43.84 RCW.

Post-audit: RCW 43.09.290 through 43.09.330.

Reporting periods: RCW 43.01.035.

State board for community and technical colleges: RCW 28B.50.070.

State finance committee: Chapter 43.33 RCW.

State payroll revolving account, agency payroll revolving fund: RCW 42.16.010 through 42.16.017.

Washington statewide reentry council—Performance audits: RCW 43.380.080.

43.88.005 Finding—Intent. The legislature finds that agency missions, goals, and objectives should focus on statewide results. It is the intent of the legislature to focus the biennial budget on how state agencies produce real results that reflect the goals of statutory programs. Specifically, budget managers and the legislature must have the data to move toward better statewide results that produce the intended public benefit. This data must be supplied in an impartial, quantifiable form, and demonstrate progress toward statewide results. With a renewed focus on achieving true results, state agencies, the office of financial management, and the legislature will be able to prioritize state resources. [2005 c 386 § 1.]

43.88.010 Purpose—Intent. It is the purpose of this chapter to establish an effective state budgeting, accounting, and reporting system for all activities of the state government, including both capital and operating expenditures; to prescribe the powers and duties of the governor as these relate to securing such fiscal controls as will promote effective budget administration; and to prescribe the responsibilities of agencies of the executive branch of the state government.

It is the intent of the legislature that the powers conferred by this chapter, as amended, shall be exercised by the executive in cooperation with the legislature and its standing, special, and interim committees in its status as a separate and coequal branch of state government. [1986 c 215 § 1; 1981 c 270 § 1; 1973 1st ex.s. c 100 § 1; 1965 c 8 § 43.88.010. Prior: 1959 c 328 § 1.]

Additional notes found at www.leg.wa.gov

43.88.020 Definitions. (1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal statement, either written or provided on any electronic media or both, offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional, or other, and every department, division, board, and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or the gover-

nor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated, or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means and transportation committees of the senate and house of representatives.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(18) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(19) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(20) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, that are prepared by the office of financial management in consultation with the transportation revenue forecast council.

(21) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(25) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(26) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(27) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(28) "Performance audit" has the same meaning as it is defined in RCW 44.28.005. [2005 c 319 § 107; 2000 2nd sp.s. c 4 § 11; 1996 c 288 § 23; 1995 c 155 § 1; 1994 c 184 § 9; 1993 c 406 § 2; 1991 c 358 § 6; 1990 c 229 § 4; 1987 c 502 § 1; 1986 c 215 § 2; 1984 c 138 § 6; 1982 1st ex.s. c 36 § 1. Prior: 1981 c 280 § 6; 1981 c 270 § 2; 1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88.020; prior: 1959 c 328 § 2.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Office of financial management: Chapter 43.41 RCW.

Additional notes found at www.leg.wa.gov

43.88.025 "Director" defined. Unless the context clearly requires a different interpretation, whenever "director" is used in this chapter, it shall mean the director of financial management created in RCW 43.41.060. [1979 c 151 § 136; 1969 ex.s. c 239 § 10.]

43.88.027 Annual financial report. The governor, through the director, shall prepare and publish within six months of the end of the fiscal year, as a matter of public

record, an annual financial report that encompasses all funds and account groups of the state. [1984 c 247 § 2.]

43.88.030 Instructions for submitting budget requests—Content of the budget document or documents—Separate budget document or schedules—Format changes. (1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The biennial budget document or documents shall also describe performance indicators that demonstrate measurable progress towards priority results. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, and agency;

(f) The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) The governor's operating budget document or documents shall reflect the statewide priorities as required by RCW 43.88.090.

(4) The governor's operating budget document or documents shall identify activities that are not addressing the statewide priorities.

(5)(a) Beginning in the 2021-2023 fiscal biennium, the governor's operating budget document or documents submitted to the legislature must leave, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2021-2023 fiscal biennium, the projected maintenance level of the governor's operating budget document or documents submitted to the legislature must not exceed the available fiscal resources for the next ensuing fiscal biennium.

(c) For purposes of this subsection:

(i) "Available fiscal resources" means the beginning general fund and related funds balances and any fiscal resources estimated for the general fund and related funds, adjusted for proposed revenue legislation, and with forecasted revenues adjusted to the greater of (A) the official general fund and related funds revenue forecast for the ensuing biennium, or (B) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium.

(ii) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in the governor's budget document or documents submitted to the legislature or mandated by other state or federal law, adjusted by the estimated cost of proposed executive branch legislation, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution. Proposed executive branch legislation does not include proposals by institutions of higher education, other separately elected officials, or other boards, commissions, and offices not under the authority of the governor that are not funded or assumed in the governor's budget document or documents submitted to the legislature.

(iii) "Related funds" has the meaning defined in RCW 43.88.055.

(d) (b) of this subsection (5) does not apply:

(i) To any governor-proposed legislation submitted to the legislature that makes net reductions in general fund and related funds appropriations to prevent the governor from making across-the-board reductions in allotments for these particular funds as provided in *RCW 43.88.110(7); or

(ii) In a fiscal biennium for which the governor proposes appropriations from the budget stabilization account pursuant to Article VII, section 12(d)(ii) of the state Constitution.

(6) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a rea-

sonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (6), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative evaluation and accountability program committee, and office of financial management.

(7) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing com-

mittees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session. [2020 c 218 § 1; 2006 c 334 § 43. Prior: 2005 c 386 § 3; 2005 c 319 § 108; 2004 c 276 § 908; 2002 c 371 § 911; 2000 2nd sp.s. c 4 § 12; 1998 c 346 § 910; prior: 1997 c 168 § 5; 1997 c 96 § 4; prior: 1994 c 247 § 7; 1994 c 219 § 2; prior: 1991 c 358 § 1; 1991 c 284 § 1; 1990 c 115 § 1; prior: 1989 c 311 § 3; 1989 c 11 § 18; 1987 c 502 § 2; prior: 1986 c 215 § 3; 1986 c 112 § 1; 1984 c 138 § 7; 1981 c 270 § 3; 1980 c 87 § 26; 1977 ex.s. c 247 § 1; 1973 1st ex.s. c 100 § 3; 1965 c 8 § 43.88.030; prior: 1959 c 328 § 3.]

*Reviser's note: RCW 43.88.110 was amended by 2021 c 54 § 2, changing subsection (7) to subsection (10).

Effective date—2020 c 218: "This act takes effect July 1, 2020." [2020 c 218 § 7.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Findings—Purpose—1997 c 96: See note following RCW 43.82.150.

Finding—1994 c 219: "The legislature finds that the acquisition, construction, and management of state-owned and leased facilities has a profound and long-range effect upon the delivery and cost of state programs, and that there is an increasing need for better facility planning and management to improve the effectiveness and efficiency of state facilities." [1994 c 219 § 1.]

Additional notes found at www.leg.wa.gov

43.88.0301 Capital budget instructions—Additional information—Staff support from office of community development. (1) The office of financial management must include in its capital budget instructions, beginning with its instructions for the 2003-05 capital budget, a request for "yes" or "no" answers for the following additional informational questions from capital budget applicants for all proposed major capital construction projects valued over 10 million dollars and required to complete a predesign:

(a) For proposed capital projects identified in this subsection that are located in or serving city or county planning under RCW 36.70A.040:

(i) Whether the proposed capital project is identified in the host city or county comprehensive plan, including the capital facility plan, and implementing rules adopted under chapter 36.70A RCW;

(ii) Whether the proposed capital project is located within an adopted urban growth area:

(A) If at all located within an adopted urban growth area boundary, whether a project facilitates, accommodates, or attracts planned population and employment growth;

(B) If at all located outside an urban growth area boundary, whether the proposed capital project may create pressures for additional development;

(b) For proposed capital projects identified in this subsection that are requesting state funding:

(i) Whether there was regional coordination during project development;

(ii) Whether local and additional funds were leveraged;

(iii) Whether environmental outcomes and the reduction of adverse environmental impacts were examined.

(2) For projects subject to subsection (1) of this section, the office of financial management shall request the required information be provided during the predesign process of

major capital construction projects to reduce long-term costs and increase process efficiency.

(3) The office of financial management, in fulfilling its duties under RCW 43.88.030(6) to create a capital budget document, must take into account information gathered under subsections (1) and (2) of this section in an effort to promote state capital facility expenditures that minimize unplanned or uncoordinated infrastructure and development costs, support economic and quality of life benefits for existing communities, and support local government planning efforts.

(4) The office of community development must provide staff support to the office of financial management and affected capital budget applicants to help collect data required by subsections (1) and (2) of this section. [2021 c 54 § 4; 2017 3rd sp.s. c 25 § 2; 2002 c 312 § 1.]

Findings—Intent—2021 c 54: See note following RCW 43.88.110.

43.88.031 Capital appropriation bill—Estimated general fund debt service costs. A capital appropriation bill shall include the estimated general fund debt service costs associated with new capital appropriations contained in that bill for the biennia in which the appropriations occur and for the succeeding two biennia. [1991 c 284 § 2.]

43.88.032 Maintenance costs, operating budget—Debt-financed pass-through money, budget document.

(1) Normal maintenance costs shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed and separately identified in the budget document. [1997 c 96 § 5; (2005 c 488 § 921 expired June 30, 2007); (2003 1st sp.s. c 26 § 921 expired June 30, 2005); 1994 c 219 § 4; 1989 c 311 § 1.]

Findings—Purpose—1997 c 96: See note following RCW 43.82.150.

Finding—1994 c 219: See note following RCW 43.88.030.

Additional notes found at www.leg.wa.gov

43.88.033 State expenditure limit—Budget document to reflect. The budget document submitted by the governor to the legislature under RCW 43.88.030 shall reflect the state expenditure limit established under chapter 43.135 RCW and shall not propose expenditures in excess of that limit. [1994 c 2 § 7 (Initiative Measure No. 601, approved November 2, 1993).]

43.88.035 Changes in accounting methods, practices or statutes—Explanation in budget document or appendix required—Contents. Any changes in accounting methods and practices or in statutes affecting expenditures or revenues for the ensuing biennium relative to the then current fiscal period which the governor may wish to recommend shall be clearly and completely explained in the text of the budget document, in a special appendix thereto, or in an alternative budget document. This explanatory material shall include, but need not be limited to, estimates of revenues and expenditures based on the same accounting practices and methods and existing statutes relating to revenues and expenditure effective for the then current fiscal period, together with alternative estimates required by any changes in accounting methods and practices and by any statutory

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changes the governor may wish to recommend. [1973 1st ex.s. c 100 § 9.]

43.88.037 Comprehensive budgeting, accounting, and reporting system conforming to generally accepted accounting principles—Budget document to conform. (1) The director of financial management shall devise and maintain a comprehensive budgeting, accounting, and reporting system in conformance with generally accepted accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1).

(2) The director of financial management shall submit a budget document in conformance with generally accepted accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1). [1987 c 502 § 3; 1984 c 247 § 1.]

43.88.050 Cash deficit. Cash deficit of the current fiscal period is defined for purposes of this chapter as the amount by which the aggregate of disbursements charged to a fund will exceed the aggregate of estimated receipts credited to such fund in the current fiscal period, less the extent to which such deficit may have been provided for from available beginning cash surplus.

If, for any applicable fund or account, the estimated receipts for the next ensuing period plus cash beginning balances is less than the aggregate of estimated disbursements proposed by the governor for the next ensuing fiscal period, the governor shall include in Part I of the budget document proposals as to the manner in which the anticipated cash deficit shall be met, whether by an increase in the indebtedness of the state, by the imposition of new taxes, by increases in tax rates or an extension thereof, or in any like manner. The governor may propose orderly liquidation of the anticipated cash deficit over a period of one or more fiscal periods, if, in the governor's discretion, such manner of liquidation would best serve the public interest. [1987 c 502 § 4; 1965 c 8 § 43.88.050. Prior: 1959 c 328 § 5.]

Exception: RCW 43.88.265.

43.88.055 Legislative balanced budget requirement.

(1) The legislature must adopt a four-year balanced budget as follows:

(a) Beginning in the 2013-2015 fiscal biennium, the legislature shall enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2013-2015 fiscal biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.

(2) For purposes of this section:

(a) "Available fiscal resources" means the beginning general fund and related fund balances and any fiscal resources estimated for the general fund and related funds, adjusted for enacted legislation, and with forecasted revenues adjusted to the greater of (i) the official general fund and related funds revenue forecast for the ensuing biennium, or (ii) the official general fund and related funds forecast for the

second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium;

(b) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution;

(c) "Related funds," as used in this section, means the Washington opportunity pathways account, the workforce education investment account, the fair start for kids account, and the education legacy trust account.

(3) Subsection (1)(a) and (b) of this section does not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.

(4) Subsection (1)(b) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account pursuant to Article VII, section 12(d)(ii) of the state Constitution. [2021 c 199 § 103; 2020 c 218 § 2; 2012 1st sp.s. c 8 § 1.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Effective date—2020 c 218: See note following RCW 43.88.030.

43.88.058 Maintenance level costs—Services for children. For the purposes of this chapter, expenditures for the following foster care, adoption support and related services, and child protective services must be forecasted and budgeted as maintenance level costs:

- (1) Behavioral rehabilitation services placements;
- (2) Social worker and related staff to receive, refer, and respond to screened-in reports of child abuse or neglect, except in fiscal year 2021;
- (3) Court-ordered parent-child and sibling visitations delivered by contractors; and
- (4) Those activities currently being treated as maintenance level costs for budgeting or forecasting purposes on June 7, 2018, including, but not limited to: (a) Adoption support and other adoption-related expenses; (b) foster care maintenance payments; (c) child-placing agency management fees; (d) support goods such as clothing vouchers; (e) child aides; and (f) child care for children in foster or relative placements when the caregiver is at work or in school. [2021 c 334 § 1904; 2018 c 208 § 5.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

43.88.060 Legislative review of budget document and budget bill or bills—Time for submission. The governor shall submit the budget document for the 1975-77 biennium and each succeeding biennium to the legislature no later than the twentieth day of December in the year preceding the session during which the budget is to be considered: PROVIDED, That where a budget document is submitted for a fiscal period other than a biennium, such document shall be submitted no less than twenty days prior to the first day of the session at which such budget document is to be considered. The governor shall also submit a budget bill or bills which for purposes of this chapter is defined to mean the appropriations

proposed by the governor as set forth in the budget document. Such representatives of agencies as have been designated by the governor for this purpose shall, when requested, by either house of the legislature, appear to be heard with respect to the budget document and the budget bill or bills and to supply such additional information as may be required. [1977 ex.s. c 247 § 2; 1973 1st ex.s. c 100 § 4; 1965 c 8 § 43.88.060. Prior: 1959 c 328 § 6.]

43.88.070 Appropriations. Appropriations shall be deemed maximum authorizations to incur expenditures but the governor shall exercise all due supervision and control to ensure that expenditure rates are such that program objectives are realized within these maximums. [1965 c 8 § 43.88.070. Prior: 1959 c 328 § 7.]

43.88.080 Adoption of budget. Adoption of the omnibus appropriation bill or bills by the legislature shall constitute adoption of the budget and the making of appropriations therefor. A budget for state government shall be finally adopted not later than thirty calendar days prior to the beginning of the ensuing biennium. [1973 1st ex.s. c 100 § 5; 1965 c 8 § 43.88.080. Prior: 1959 c 328 § 8.]

43.88.090 Development of budget—Detailed estimates—Mission statement, measurable goals, quality and productivity objectives—Integration of strategic plans and performance assessment procedures—Reviews by office of financial management and consolidated technology services agency—Governor-elect input. (1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The governor shall communicate statewide priorities to agencies for use in developing biennial budget recommendations for their agency and shall seek public involvement and input on these priorities. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this subsection requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those

services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing activity performance, each state agency shall establish quality and productivity objectives for each major activity in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. Objectives must specifically address the statutory purpose or intent of the program or activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for and perform continuous self-assessment of each activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section. The assessment of the activity must also include an evaluation of major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities. The evaluation of proposed major information technology systems or projects shall be in accordance with the standards and policies established by the technology services board. Agencies' progress toward the mission, goals, objectives, and measurements required by subsections (2) and (3) of this section is subject to review as set forth in this subsection.

(a) The office of financial management shall regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results.

(b) The office of financial management shall consult with: (i) The four-year institutions of higher education in those reviews that involve four-year institutions of higher education; and (ii) the state board for community and technical colleges in those reviews that involve two-year institutions of higher education.

(c) The goal is for all major activities to receive at least one review each year.

(d) The consolidated technology services agency shall review major information technology systems in use by state agencies periodically.

(5) It is the policy of the legislature that each agency's budget recommendations must be directly linked to the agency's stated mission and program, quality, and productivity goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of an activity's success in achieving its goals. When a review under subsection

(4) of this section or other analysis determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request shall contain proposals to remedy or improve the selected programs. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In reviewing agency budget requests in order to prepare the governor's biennial budget request, the office of financial management shall consider the extent to which the agency's activities demonstrate progress toward the statewide budgeting priorities, along with any specific review conducted under subsection (4) of this section.

(7) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate. [2015 3rd sp.s. c 1 § 409; 2015 c 225 § 86; 2012 c 229 § 587; 2005 c 386 § 2; 1997 c 372 § 1; 1996 c 317 § 10; 1994 c 184 § 10; 1993 c 406 § 3; 1989 c 273 § 26; 1987 c 505 § 35; 1984 c 247 § 3; 1981 c 270 § 4; 1979 c 151 § 137; 1975 1st ex.s. c 293 § 5; 1973 1st ex.s. c 100 § 6; 1965 c 8 § 43.88.090. Prior: 1959 c 328 § 9.]

Effective date—2015 3rd sp.s. c 1 §§ 401-405, 409, 411, and 412: See note following RCW 2.36.057.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Additional notes found at www.leg.wa.gov

43.88.092 Information technology budget detail—Information technology plan—Accounting method for information technology. (1) As part of the biennial budget process, the office of financial management shall collect from

agencies, and agencies shall provide, information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by technology services board policy. The office of financial management must work with the office of the state chief information officer to maximize the ability to draw this information from the information technology portfolio management data collected by the consolidated technology services agency. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The director of the consolidated technology services agency shall evaluate proposed information technology expenditures and establish priority ranking categories of the proposals. No more than one-third of the proposed expenditures shall be ranked in the highest priority category.

(4) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan and a technology budget for the state identifying current baseline funding for information technology, proposed and ongoing major information technology projects, and their associated costs. This plan and technology budget must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(5) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment.

(6) For the purposes of this section, "major information technology projects" includes projects that have a significant anticipated cost, complexity, or are of statewide significance, such as enterprise-level solutions, enterprise resource planning, and shared services initiatives. [2015 3rd sp.s. c 1 § 410; 2013 2nd sp.s. c 33 § 4; 2011 1st sp.s. c 43 § 733; 2010 c 282 § 3.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.88.096 Budget detail—Designated state agencies—Federal receipts reporting requirements. (1) As used in this section:

(a) "Designated state agency" means the department of social and health services, the department of health, the health care authority, the department of commerce, the department of ecology, the department of fish and wildlife,

the office of the superintendent of public instruction, and the department of children, youth, and families.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501 on September 28, 2013, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501 on September 28, 2013.

(2) Subject to subsection (3) of this section, a designated state agency shall prepare as part of the agency's biennial budget submittal under this chapter a report that:

(a) Reports the aggregate value of federal receipts the designated state agency estimated for the ensuing biennium;

(b) Calculates the percentage of the designated state agency's total budget for the ensuing biennium that constitutes federal receipts that the designated state agency received; and

(c) Develops plans for operating the designated state agency if there is a reduction of:

(i) Five percent or more in the federal receipts that the designated state agency receives; and

(ii) Twenty-five percent or more in the federal receipts that the designated state agency receives.

(3) The report required by subsection (2) of this section prepared by the superintendent of public instruction shall include the information required by subsection (2)(a) through (c) of this section for each school district within the state. [2017 3rd sp.s. c 6 § 227; 2013 2nd sp.s. c 32 § 1.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

43.88.100 Executive hearings. The governor may provide for hearings on all agency requests for expenditures to enable him or her to make determinations as to the need, value or usefulness of activities or programs requested by agencies. The governor may require the attendance of proper agency officials at his or her hearings and it shall be their duty to disclose such information as may be required to enable the governor to arrive at his or her final determination. [2009 c 549 § 5165; 1965 c 8 § 43.88.100. Prior: 1959 c 328 § 10.]

43.88.110 Expenditure programs—Allotments—Reserves—Monitor capital appropriations—Predesign review for major capital construction. This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.

(1) Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(2) The director of financial management shall provide all agencies with a complete set of operating and capital instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal period. The set of instructions need not include specific appropriation amounts for the agency.

(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later,

all agencies shall submit to the governor a statement of proposed expenditures at such times and in such form as may be required by the governor.

(4) The office of financial management shall develop a method for monitoring capital appropriations and expenditures that will capture at least the following elements:

(a) Appropriations made for capital projects including transportation projects;

(b) Estimates of total project costs including past, current, ensuing, and future biennial costs;

(c) Comparisons of actual costs to estimated costs;

(d) Comparisons of estimated construction start and completion dates with actual dates;

(e) Documentation of fund shifts between projects.

This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.

(5) Except as provided for under subsection (6) of this section, the office of financial management, prior to approving allotments for major capital construction projects valued over ten million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The procedures shall include, but not be limited to, the following elements:

(a) Evaluation of facility program requirements and consistency with long-range plans;

(b) Utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and

(c) A requirement to incorporate value-engineering analysis and constructability review into the project schedule.

(6) The office of financial management may make an exception to some or all of the predesign requirements in subsection (5) of this section. The office of financial management shall report any exception to the fiscal committees of the legislature and include: (a) A description of the major capital project for which the predesign waiver is made; (b) an explanation of the reason for the waiver; and (c) a rough order of magnitude cost estimate for the project's design and construction.

(7) In deliberations related to submitting an exception under subsection (6) of this section, the office of financial management shall consider the following factors:

(a) Whether there is any determination to be made regarding the site of the project;

(b) Whether there is any determination to be made regarding whether the project will involve renovation, new construction, or both;

(c) Whether, within six years of submitting the request for funding, the agency has completed, or initiated the construction of, a substantially similar project;

(d) Whether there is any anticipated change to the project's program or the services to be delivered at the facility;

(e) Whether the requesting agency indicates that the project may not require some or all of the requirements in subsection (5) of this section due to a lack of complexity; and

(f) Whether any other factors related to project complexity or risk, as determined by the office of financial management, could reduce the need for, or scope of, a predesign.

(8) If under subsection (6) of this section, some or all of the predesign requirements under subsection (5) of this sec-

tion are waived, the office of financial management may instead propose a professional project cost estimate instead of a request for predesign funding.

(9) No expenditure may be incurred or obligation entered into for such major capital construction projects including, without exception, land acquisition, site development, predesign, design, construction, and equipment acquisition and installation, until the allotment of the funds to be expended has been approved by the office of financial management. This limitation does not prohibit the continuation of expenditures and obligations into the succeeding biennium for projects for which allotments have been approved in the immediate prior biennium.

(10) If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods. Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. The governor may request corrections of proposed allotments submitted by the legislative and judicial branches and agencies headed by elective officials if those proposed allotments contain significant technical errors. Once the governor approves the proposed allotments, further revisions may at the request of the office of financial management or upon the agency's initiative be made on a quarterly basis and must be accompanied by an explanation of the reasons for significant changes. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

(11) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the

responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

(12) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees. [2021 c 54 § 2; 2014 c 162 § 4; 2009 c 518 § 3; 2003 c 206 § 1; 1997 c 96 § 6; 1994 c 219 § 5. Prior: 1991 sp.s. c 32 § 27; 1991 c 358 § 2; 1987 c 502 § 5; 1986 c 215 § 4; 1984 c 138 § 8; 1983 1st ex.s. c 47 § 1; 1982 2nd ex.s. c 15 § 1; 1981 c 270 § 5; 1979 c 151 § 138; 1975 1st ex.s. c 293 § 6; 1965 c 8 § 43.88.110; prior: 1959 c 328 § 11.]

Findings—Intent—2021 c 54: "The legislature finds that predesigns are often done due to statutory requirements regardless of whether it is necessary to the capital project. The legislature also finds that the cost of unnecessary predesigns includes not only limited resources in the capital budget, but an extended project timeline. Therefore, the legislature intends to reduce the number of predesigns by raising the cost threshold and adding exceptions to the predesign requirements." [2021 c 54 § 1.]

Findings—Purpose—1997 c 96: See note following RCW 43.82.150.

Finding—1994 c 219: See note following RCW 43.88.030.

Exception: RCW 43.88.265.

Additional notes found at www.leg.wa.gov

43.88.120 Revenue estimates. Each agency engaged in the collection of revenues shall prepare estimated revenues and estimated receipts for the current and ensuing biennium and shall submit the estimates to the director of financial management and the director of revenue at times and in the form specified by the directors, along with any other information which the directors may request. For those agencies required to develop six-year programs and financial plans under *RCW 44.40.070, six-year revenue estimates shall be submitted to the director of financial management and the transportation committees of the senate and the house of representatives unless the responsibility for reporting these revenue estimates is assumed elsewhere.

A copy of such revenue estimates shall be simultaneously submitted to the economic and revenue forecast work group when required by the office of the economic and revenue forecast council. [2000 2nd sp.s. c 4 § 13; 1991 c 358 § 3; 1987 c 502 § 6; 1984 c 138 § 10; 1981 c 270 § 8; 1973 1st ex.s. c 100 § 7; 1965 c 8 § 43.88.120. Prior: 1959 c 328 § 12.]

*Reviser's note: RCW 44.40.070 was repealed by 2005 c 319 § 141.

Additional notes found at www.leg.wa.gov

43.88.122 Transportation agency revenue forecasts—Variances. Where there are variances of revenue forecasts between the office of financial management and the transportation revenue forecast council, for those transportation agencies that are required to develop plans under *RCW 44.40.070, the office of financial management shall submit (1) a reconciliation of the differences between the revenue forecasts and (2) the assumptions used by the office of financial management to the transportation committees of the senate and the house of representatives. [2000 2nd sp.s. c 4 § 14; 1991 c 358 § 7.]

[Title 43 RCW—page 524]

*Reviser's note: RCW 44.40.070 was repealed by 2005 c 319 § 141.

Additional notes found at www.leg.wa.gov

43.88.125 Study of transportation-related funds or accounts—Coordination of activities. The standing committees on transportation of the house and senate shall, in coordination with the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives, ascertain, study, and analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state.

The joint legislative audit and review committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives shall coordinate their activities with the transportation committees of the legislature in carrying out the committees' powers and duties under chapter 43.88 RCW in matters relating to the transportation programs of the state. [2005 c 319 § 114; 1996 c 288 § 49; 1981 c 270 § 15; 1977 ex.s. c 235 § 6; 1975 1st ex.s. c 293 § 19; 1971 ex.s. c 195 § 2. Formerly RCW 44.40.025.]

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.88.130 When contracts and expenditures prohibited. No agency shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that purpose: PROVIDED, That nothing in this section shall prevent the making of contracts or the spending of money for capital improvements, nor the making of contracts of lease or for service for a period exceeding the fiscal period in which such contract is made, when such contract is permitted by law. Any contract made in violation of this section shall be null and void. [1965 c 8 § 43.88.130. Prior: 1959 c 328 § 13.]

43.88.140 Lapsing of appropriations. All appropriations shall lapse at the end of the fiscal period for which the appropriations are made to the extent that they have not been expended or lawfully obligated. [1981 c 270 § 9; 1965 c 8 § 43.88.140. Prior: 1959 c 328 § 14.]

Additional notes found at www.leg.wa.gov

43.88.145 Capital projects—Transfer of excess appropriation authority. (1) The capital appropriations act may authorize the governor, through the director of financial management, to transfer the appropriation authority for a capital project that is in excess of the amount required for the completion of the project to another capital project for which the appropriation is insufficient.

(a) No such transfer may be used to expand the capacity or change the intended use of the project beyond that intended by the legislature in making the appropriation.

(b) The transfer may be effected only between capital projects within a specific department, commission, agency, or institution of higher education.

(2022 Ed.)

(c) The transfer may be effected only if the project from which the transfer of funds is made is substantially complete and there are funds remaining, or bids have been let on the project from which the transfer of funds is made and it appears to a substantial certainty that the project can be completed within the biennium for less than the amount appropriated.

(2) For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless the legislative history demonstrates that the legislature intended to define the scope of a project in a different way.

(3) The office of financial management shall notify the legislative fiscal committees of the senate and the house of representatives at least thirty days before any transfer is effected under this section except emergency projects or any transfer under two hundred fifty thousand dollars, and shall prepare a report to such committees listing all completed transfers at the close of each fiscal year. [1994 c 219 § 6.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88.150 Priority of expenditures—Appropriated and nonappropriated funds—Matching funds, disburse state moneys proportionally. (1) For those agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, the governor shall direct such agencies to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will conserve appropriated funds. For institutions of higher education, as defined in RCW 28B.10.016, this subsection applies only to operating fee accounts.

(2) Unless otherwise provided by law, if state moneys are appropriated for a capital project and matching funds or other contributions are required as a condition of the receipt of the state moneys, the state moneys shall be disbursed in proportion to and only to the extent that the matching funds or other contributions have been received and are available for expenditure.

(3) The office of financial management shall adopt guidelines for the implementation of this section. The guidelines may account for federal matching requirements or other requirements to spend other moneys in a particular manner. [2012 c 230 § 7; 2011 1st sp.s. c 50 § 948; 1995 c 6 § 1; 1991 c 284 § 3; 1981 c 270 § 10; 1965 c 8 § 43.88.150. Prior: 1959 c 328 § 15.]

Savings report—2012 c 230: See RCW 28B.10.0291.

Additional notes found at www.leg.wa.gov

43.88.160 Fiscal management—Powers and duties of officers and agencies. This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting sys-

tem for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43.88C RCW, the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

(i) For those agencies that the director determines internal audit is required, the agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following profes-

sional audit standards including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both.

(ii) For those agencies that the director determines internal audit is not required, the agency head or authorized designee may establish and maintain internal audits following professional audit standards including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both, but at a minimum must comply with policies as established by the director to assess the effectiveness of the agency's systems of internal controls and risk management processes;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter the plans, except that for the following agencies no amendment or alteration of the plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized employee years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix the number or the classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than equipment maintenance providers or as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of enterprise services but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than twelve months after such payment except that institutions of higher education as defined in RCW 28B.10.016 and the consolidated technology services agency created in RCW 43.105.006 may make payments in advance for equipment maintenance services to be performed up to sixty months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with rules issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agen-

cies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken within six months, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110. The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result of an audit including, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

In addition to the authority given to the state auditor in this subsection (6), the state auditor is authorized to conduct performance audits identified in RCW 43.09.470. Nothing in this subsection (6) shall limit, impede, or restrict the state auditor from conducting performance audits identified in RCW 43.09.470.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance

audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management. [2015 3rd sp.s. c 1 § 303; 2015 3rd sp.s. c 1 § 109; 2012 c 230 § 1; 2006 c 1 § 6 (Initiative Measure No. 900, approved November 8, 2005); 2002 c 260 § 1; 1998 c 135 § 1; 1997 c 168 § 6; 1996 c 288 § 25; 1994 c 184 § 11. Prior: 1993 c 500 § 7; 1993 c 406 § 4; 1993 c 194 § 6; 1992 c 118 § 8; (1992 c 118 § 7 expired April 1, 1992); 1991 c 358 § 4; prior: 1987 c 505 § 36; 1987 c 436 § 1; 1986 c 215 § 5; 1982 c 10 § 11; prior: 1981 c 280 § 7; 1981 c 270 § 11; 1979 c 151 § 139; 1975 1st ex.s. c 293 § 8; 1975 c 40 § 11; 1973 c 104 § 1; 1971 ex.s. c 170 § 4; 1967 ex.s. c 8 § 49; 1965 c 8 § 43.88.160; prior: 1959 c 328 § 16.]

Reviser's note: This section was amended by 2015 3rd sp.s. c 1 § 109 and by 2015 3rd sp.s. c 1 § 303, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Savings report—2012 c 230: See RCW 28B.10.0291.

Policies and purposes—Construction—Severability—Part headings not law—2006 c 1 (Initiative Measure No. 900): See notes following RCW 43.09.470.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Director of financial management: Chapter 43.41 RCW.

Joint legislative audit and review committee: Chapter 44.28 RCW.

Post-audit: RCW 43.09.290 through 43.09.330.

Powers and duties of director of enterprise services as to official bonds: RCW 43.19.784.

State auditor, duties: Chapter 43.09 RCW.

State treasurer, duties: Chapter 43.08 RCW.

Additional notes found at www.leg.wa.gov

43.88.170 Refunds of erroneous or excessive payments. Whenever any law which provides for the collection of fees or other payment by an agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the agency which collected the fees or payments of all such amounts received by the agency in consequence of error, either of fact or of law. The regulations issued by the governor pursuant to this chapter shall prescribe the procedure to be employed in making refunds. [1965 c 8 § 43.88.170. Prior: 1959 c 328 § 17.]

Refunds: RCW 43.01.072 through 43.01.075.

43.88.175 Credit reporting agencies—State agency use. State agencies may report receivables to credit reporting

agencies whenever the agency determines that such reporting would be cost-effective and does not violate confidentiality or other legal requirements. Within thirty-five days after satisfaction of a debt reported to a credit reporting agency, the state agency reporting the debt shall notify the credit reporting agency that the debt has been satisfied. [1991 c 85 § 1; 1989 c 100 § 1.]

43.88.180 When appropriations required or not required. Appropriations shall not be required for refunds, as provided in RCW 43.88.170, nor in the case of payments other than for administrative expenses or capital improvements to be made from trust funds specifically created by law to discharge awards, claims, annuities and other liabilities of the state. Said trust funds shall include, but shall not be limited to, the accident fund, medical aid fund, retirement system fund, Washington state patrol retirement fund and unemployment trust fund. Appropriations may be required in the case of public service enterprises defined for the purposes of this section as proprietary functions conducted by an agency of the state. An appropriation may be required to permit payment of obligations by revolving funds, as provided in RCW 43.88.190. [1973 1st ex.s. c 100 § 8; 1965 c 8 § 43.88.180. Prior: 1959 c 328 § 18.]

43.88.190 Revolving funds. Revolving funds shall not be created by law except to finance the operations of service units, or units set up to supply goods and services to other units or agencies. Such service units where created shall be self-supporting operations featuring continuous turnover of working capital. The regulations issued by the governor pursuant to this chapter shall prescribe the procedures to be employed by agencies in accounting and reporting for revolving funds and may provide for the keeping of such funds in the custody of the treasurer. [1965 c 8 § 43.88.190. Prior: 1959 c 328 § 19.]

43.88.195 Establishment of accounts or funds outside treasury without permission of director of financial management prohibited. After August 11, 1969, no state agency, state institution, state institution of higher education, which shall include all state universities, regional universities, The Evergreen State College, and community colleges, shall establish any new accounts or funds which are to be located outside of the state treasury: PROVIDED, That the office of financial management shall be authorized to grant permission for the establishment of such an account or fund outside of the state treasury only when the requesting agency presents compelling reasons of economy and efficiency which could not be achieved by placing such funds in the state treasury. When the director of financial management authorizes the creation of such fund or account, the director shall forthwith give written notice of the fact to the standing committees on ways and means of the house and senate: PROVIDED FURTHER, That agencies authorized to create local accounts will utilize the services of the state treasurer's office to ensure that new or ongoing relationships with financial institutions are in concert with statewide policies and procedures pursuant to RCW 43.88.160(1). [1996 c 186 § 509; 1993 c 500 § 8; 1991 c 201 § 19; 1979 c 151 § 140; 1977

ex.s. c 169 § 109; 1975 1st ex.s. c 293 § 9; 1969 ex.s. c 248 § 1.]

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.88.200 Public records. All agency records reflecting financial transactions, such records being defined for purposes of this chapter to mean books of account, financial statements, and supporting records including expense vouchers and other evidences of obligation, shall be deemed to be public records and shall be available for public inspection in the agency concerned during official working hours. [1965 c 8 § 43.88.200. Prior: 1959 c 328 § 20.]

43.88.205 Federal funds and programs—Participating agencies to give notice—Progress reports. (1) Whenever an agency makes application, enters into a contract or agreement, or submits state plans for participation in, and for grants of federal funds under any federal law, the agency making such application shall at the time of such action, give notice in such form and manner as the director of financial management may prescribe, or the chair of the joint legislative audit and review committee, standing committees on ways and means of the house and senate, the chief clerk of the house, or the secretary of the senate may request.

(2) Whenever any such application, contract, agreement, or state plan is amended, such agency shall notify each such officer of such action in the same manner as prescribed or requested pursuant to subsection (1) of this section.

(3) Such agency shall promptly furnish such progress reports in relation to each such application, contract, agreement, or state plan as may be requested following the date of the filing of the application, contract, agreement, or state plan; and shall also file with each such officer a final report as to the final disposition of each such application, contract, agreement, or state plan if such is requested. [1996 c 288 § 39; 1979 c 151 § 141; 1975 1st ex.s. c 293 § 10; 1973 2nd ex.s. c 17 § 3; 1967 ex.s. c 41 § 4.]

Acceptance of funds by governor, administration: RCW 43.06.120, 43.06.130.

43.88.210 Transfer of certain powers and duties. It is the intent of this chapter to assign to the governor's office authority for developing and maintaining a state budgeting, accounting, and reporting system necessary for effective expenditure and revenue control among agencies.

To this end:

(1) All powers and duties and functions of the state auditor relating to the disbursement of public funds by warrant or check are hereby transferred to the state treasurer as the governor may direct but no later than ninety days after the start of the next fiscal biennium, and the state auditor shall deliver to the state treasurer all books, records, accounts, equipment, or other property relating to such function. In all cases where any question shall arise as to the proper custody of any such books, records, accounts, equipment or property, or pending business, the governor shall determine the question;

(2) In all cases where reports, notices, certifications, vouchers, disbursements and similar statements are now

required to be given to any agency the duties and responsibilities of which are being assigned or reassigned by this chapter, the same shall be given to the agency or agencies in the manner provided for in this chapter. [1986 c 215 § 6; 1965 c 8 § 43.88.210. Prior: 1959 c 328 § 21.]

43.88.220 Federal law controls in case of conflict—

Rules. If any part of this chapter shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules and regulations under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1965 c 8 § 43.88.220. Prior: 1959 c 328 § 22.]

43.88.230 Legislative agencies and committees deemed part of legislative branch. For the purposes of this chapter, the statute law committee, the joint legislative audit and review committee, the joint transportation committee, the legislative evaluation and accountability program committee, the office of legislative support services, the joint higher education committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government. [2012 c 229 § 205; 2012 c 113 § 7; 2005 c 319 § 109; 1996 c 288 § 40; 1981 c 270 § 12; 1975 1st ex.s. c 293 § 11; 1965 c 8 § 43.88.230. Prior: 1959 c 328 § 23.]

Reviser's note: This section was amended by 2012 c 113 § 7 and by 2012 c 229 § 205, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2012 c 113: See note following RCW 44.80.010.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Additional notes found at www.leg.wa.gov

43.88.240 Exemption of Washington state commodity commissions. Unless otherwise directed in the commodity commission enabling statute, this chapter shall not apply to the Washington state commodity commissions created either under separate statute or under the provisions of chapters 15.65 and 15.66 RCW: PROVIDED, That all such commissions shall submit estimates and such other necessary information as may be required for the development of the budget and shall also be subject to audit by the appropriate state auditing agency or officer. [1995 c 374 § 60; 1981 c 225 § 3; 1965 c 8 § 43.88.240. Prior: 1959 c 328 § 24.]

Additional notes found at www.leg.wa.gov

43.88.250 Emergency expenditures. Whenever an emergency shall arise necessitating an expenditure for the preservation of peace, health or safety, or for the carrying on of the necessary work required by law of any state agency for which insufficient or no appropriations have been made, the head of such agency shall submit to the governor, duplicate copies of a sworn statement, setting forth the facts constitut-

ing the emergency and the estimated amount of money required therefor. If the governor approves such estimate in whole or in part, the governor shall indorse on each copy of the statement the governor's approval, together with a statement of the amount approved as an allocation from any appropriation available for allocation for emergency purposes and transmit one copy to the head of the agency thereby authorizing the emergency expenditures. [1975-'76 2nd ex.s. c 83 § 1.]

43.88.260 Deficiencies prohibited—Exceptions. (1) It shall be unlawful for any agency head or disbursing officer to incur any cash deficiency and any appointive officer or employee violating the provisions of this section shall be subject to summary removal.

(2) This section does not apply to:

(a) Temporary cash deficiencies resulting from disbursements under a expenditure plan approved under RCW 43.88.110.

(b) Temporary cash deficiencies authorized by the director of financial management for funds and accounts in the state treasury or in the custody of the state treasurer. Each authorization under this subsection (b) shall distinctly specify the fund or account for which a deficiency is authorized, the maximum amount of cash deficiency which may be incurred, and the maximum time period during which the cash deficiency may continue. Each authorization shall expire at the end of each fiscal biennium unless renewed by the director of financial management. The director of financial management shall report each authorization and renewal to the legislative fiscal committees.

(c) Temporary cash deficiencies in funds or accounts which are neither in the state treasury, nor in the custody of the treasurer, if the cash deficiency does not continue past the end of the fiscal biennium.

(3) Nothing in this section permits the expenditure of moneys in excess of an applicable appropriation. [1987 c 502 § 7; 1975-'76 2nd ex.s. c 83 § 2.]

43.88.265 Construction accounts—Exception to certain accounting requirements. In order to comply with the provisions of the federal tax reform act of 1986, construction accounts that receive bond proceeds are exempt from RCW 43.88.050, 43.88.110, and 43.88.260 and may incur seasonal cash deficits pending the sale of bonds or bond anticipation notes subject to the following conditions:

(1) The respective account has unexpended appropriation authority.

(2) There are authorized unissued bonds available for sale by the state finance committee under direction to deposit the proceeds of the sale in the respective account.

(3) The bonds are of an amount that would remedy the cash deficit if the bonds were sold. [1989 1st ex.s. c 14 § 18.]

Additional notes found at www.leg.wa.gov

43.88.270 Penalty for violations. Any officer or employee violating, or wilfully refusing or failing to comply with, any provision of this chapter shall be guilty of a misdemeanor. [1975-'76 2nd ex.s. c 83 § 3.]

43.88.280 Fiscal responsibilities of state officers and employees—"State officer or employee" defined. As used in RCW 43.88.290 and 43.88.300 the term "state officer or employee" includes the members of the governing body of any state agency, as state agency is defined in RCW 43.88.020(4) and those generally known as executive management but excludes nonsupervisory state employees covered by civil service under chapters 41.06 and *28B.16 RCW. [1977 ex.s. c 320 § 1.]

**Reviser's note:* Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. RCW 28B.16.015 and 41.06.382 were subsequently repealed by 2002 c 354 § 403, effective July 1, 2005.

Additional notes found at www.leg.wa.gov

43.88.290 Fiscal responsibilities of state officers and employees—Prohibitions relative to appropriations and expenditures. No state officer or employee shall intentionally or negligently: Over-expend or over-encumber any appropriation made by law; fail to properly account for any expenditures by fund, program, or fiscal period; or expend funds contrary to the terms, limits, or conditions of any appropriation made by law. [1981 c 270 § 13; 1977 ex.s. c 320 § 2.]

Additional notes found at www.leg.wa.gov

43.88.300 Fiscal responsibilities of state officers and employees—Violations—Civil penalties—Forfeiture. (1) Where there is reason to believe that a present or former state officer or employee has violated or threatens to violate RCW 43.88.290, the attorney general may initiate an appropriate civil action for the enforcement of RCW 43.88.280 through 43.88.320 or to prevent any such violation. The action may be brought in the county where the alleged violator resides, or the county where the violation is alleged to have occurred or is threatened.

(2) For each violation of RCW 43.88.290 the attorney general shall seek to recover and the court may award the following damages on behalf of the state of Washington:

(a) From each person found in violation of RCW 43.88.290 a civil penalty in the amount of five hundred dollars, or all costs, including reasonable attorney's fees incurred by the state in said action, whichever is greater;

(b) Any damages sustained by the state as a result of the conduct constituting said violation.

In addition to the other penalties contained in this section, judgment against any person, other than an elected official, for violating RCW 43.88.290 may include a declaration of forfeiture of such person's office or employment, to take effect immediately. [1977 ex.s. c 320 § 3.]

Additional notes found at www.leg.wa.gov

43.88.310 Fiscal responsibilities of state officers and employees—Duties of legislative auditor, attorney general. (1) The legislative auditor of the office of the joint legislative audit and review committee, with the concurrence of the joint legislative audit and review committee, may file with the attorney general any audit exceptions or other findings of any performance audit, management study, or special report prepared for the joint legislative audit and review committee, any standing or special committees of the house or

senate, or the entire legislature which indicate a violation of RCW 43.88.290, or any other act of malfeasance, misfeasance, or nonfeasance on the part of any state officer or employee.

(2) The attorney general shall promptly review each filing received from the legislative auditor and may act thereon as provided in RCW 43.88.300, or any other applicable statute authorizing enforcement proceedings by the attorney general. The attorney general shall advise the joint legislative audit and review committee of the status of exceptions or findings referred under this section. [1996 c 288 § 41; 1993 c 157 § 1; 1977 ex.s. c 320 § 4.]

Additional notes found at www.leg.wa.gov

43.88.320 Fiscal responsibilities of state officers and employees—Civil penalties additional to other penalties. The civil penalties provided by RCW 43.88.280 through 43.88.320 are in addition to any other penalties which may be provided by law. [1977 ex.s. c 320 § 5.]

Additional notes found at www.leg.wa.gov

43.88.350 Legal services revolving fund—Enterprise services account—Approval of certain changes required. Any rate increases proposed for or any change in the method of calculating charges from the legal services revolving fund or services provided in accordance with RCW 43.01.090 or 43.19.500 in the enterprise services account is subject to approval by the director of financial management prior to implementation. [2015 c 225 § 87; 1998 c 105 § 16; 1981 c 270 § 14.]

Enterprise services account: RCW 43.19.500.

Legal services revolving fund: RCW 43.10.150.

Additional notes found at www.leg.wa.gov

43.88.550 Forest firefighting expenses—Transfers to Clarke-McNary fund. Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state, or such other funds as the state treasurer deems appropriate, to the Clarke-McNary fund such amounts as are necessary to meet unbudgeted forest firefighting expenses. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed. [1989 c 362 § 3.]

43.88.560 Information technology projects—Funding policies and standards. The director of financial management shall establish policies and standards governing the funding of major information technology projects. The director of financial management shall also direct the collection of additional information on information technology projects and submit an information technology plan as required under RCW 43.88.092. [2015 c 225 § 88; 2010 c 282 § 4; 1992 c 20 § 7.]

Additional notes found at www.leg.wa.gov

43.88.570 Social services provided by nongovernmental entities receiving state moneys—Report by agencies—Audits. (1) Each state agency shall submit a report to

the office of the state auditor listing each nongovernment entity that received over three hundred thousand dollars in state moneys during the previous fiscal year under contract with the agency for purposes related to the provision of social services. The report must be submitted by September 1 each year, and must be in a form prescribed by the office of the state auditor.

(2) The office of the state auditor shall select at random a group of entities from the reports using a procedure prescribed by the office of the state auditor. The office of the state auditor shall ensure that the number of entities selected under this subsection (2) each year is sufficient to ensure a statistically representative sample of all reported entities.

(3) Each entity selected under subsection (2) of this section shall be required to complete a comprehensive entity-wide audit in accordance with generally accepted government auditing standards. The audit shall be completed by, or under the supervision of, a certified public accountant licensed in this state. The audit shall determine, at a minimum, whether:

(a) The financial statements of the entity are presented fairly in all material respects in conformity with generally accepted accounting principles;

(b) The schedule of expenditures of state moneys is presented fairly in all material respects in relation to the financial statements taken as a whole;

(c) Internal accounting controls exist and are effective; and

(d) The entity has complied with laws, regulations, and contract and grant provisions that have a direct and material effect on performance of the contract and the expenditure of state moneys.

(4) The office of the state auditor shall also select a second group based on a risk assessment of entities conducted by the office of the state auditor in consultation with state agencies. The office of the state auditor shall consider, at a minimum, the following factors when conducting risk assessments: Findings from audits of entities under contract with the state to provide services for the same state or federal program; findings from previous audits; decentralization of decision making and controls; turnover in officials and key personnel; changes in management structure or operations; and the presence of new programs, technologies, or funding sources.

(5) The office of the state auditor is required to complete a comprehensive entity-wide audit, in accordance with generally accepted government auditing standards, of each entity selected under subsection (4) of this section. The office of the state auditor may procure the services of a certified public accountant to perform such an audit, as set forth under RCW 43.09.045. The audit shall determine, at a minimum, whether:

(a) The financial statements of the entity are presented fairly in all material respects in conformity with generally accepted accounting principles;

(b) The schedule of expenditures of state moneys is presented fairly in all material respects in relation to the financial statements taken as a whole;

(c) Internal accounting controls exist and are effective; and

(d) The entity has complied with statutes, rules, regulations, and contract and grant provisions that have a direct and

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material effect on performance of the contract and the expenditure of state moneys.

(6) The office of the state auditor shall prescribe policies and procedures for the conduct of audits under this section. The office of the state auditor shall deem single audits completed in compliance with federal requirements to be in fulfillment of the requirements of this section if the audit meets the requirements of subsection (3)(a) through (d) or (5)(a) through (d) of this section. If the entity is selected under subsection (4) of this section, the office of the state auditor shall review the single audit to determine if there is evidence of misuse of public moneys.

(7) Completed audits must be delivered to the office of the state auditor and the state agency by April 1 in the year following the selection of the entity for audit. Entities must resolve any findings contained in the audit within six months of the delivery of the audit. Entities may not enter into new contracts with state agencies until all major audit findings are resolved.

(8) Nothing in this section limits the authority of the state auditor to carry out statutorily and contractually prescribed powers and duties. [1998 c 232 § 2; 1997 c 374 § 3.]

Findings—Intent—1998 c 232: See note following RCW 43.09.055.

Findings—1997 c 374: See note following RCW 43.63A.125.

43.88.580 Database of state agency contracts for personal services—State expenditure information website.

(1) The department of enterprise services shall make electronically available to the public a database of state agency contracts for personal services required to be filed with the department of enterprise services under *chapter 39.29 RCW.

(2) The state expenditure information website described in RCW 44.48.150 shall include a link to the department of enterprise services database described in subsection (1) of this section. [2011 1st sp.s. c 43 § 534; 2008 c 326 § 3.]

***Reviser's note:** Chapter 39.29 RCW was repealed by 2012 c 224 § 29, effective January 1, 2013. See chapter 39.26 RCW.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Intent—2008 c 236: See note following RCW 44.48.150.

43.88.583 Public inspection of state collective bargaining agreements—Website—Contents.

(1) To facilitate public inspection of state collective bargaining agreements, the office of financial management must maintain a website that is accessible to the public of all agreements collectively bargained with state employees under the authority of chapters 28B.52, 41.56, 41.76, 41.80, and 47.64 RCW. In addition, the website must contain all agreements collectively bargained with persons who are state employees solely for the purpose of collective bargaining under RCW 41.56.026, 41.56.028, 41.56.029, 41.56.473, 41.56.510, and 74.39A.270. Tentatively agreed to collective bargaining agreements must be posted to the website in a searchable format within forty-five days of being submitted to the office of financial management. Revisions and modification to agreements must be posted to the website within fifteen days of the agreement being signed by both parties.

(2) To facilitate public understanding of state collective bargaining agreements, the office of financial management

must prepare a summary of each agreement subject to subsection (1) of this section for posting on the website by December 20th of the year in which the agreement was negotiated, but no later than the date that the governor submits a request for funding to the legislature. The summary must identify the following information for each agreement:

- (a) The term of the agreement;
- (b) The bargaining units covered by the agreement by state agency;
- (c) Base compensation;
- (d) Provisions for and rate of overtime pay;
- (e) Provisions for and rate of compensatory time;
- (f) Provisions for and rate of any other compensation including, but not limited to, shift premium pay, on-call pay, stand-by pay, assignment pay, special pay, or employer-provided housing or meals;
- (g) Provisions for and rate of pay for each paid leave provision;
- (h) Provisions for and rate of pay for any cash out provisions for compensatory time or paid leave;
- (i) Temporary layoff provision;
- (j) Any impasse procedure subject to bargaining;
- (k) Health care benefits provisions expressed as a percentage of cost or as a dollar amount, or in the case of contributions to a third-party benefit fund, the hourly contribution rate to the fund;
- (l) Any retirement benefit subject to bargaining, or in the case of contributions to a third-party benefit fund, the hourly contribution rate to the fund;
- (m) For compensation or fringe benefits with an anticipated cost of fifty thousand dollars or more, a brief description of each component and its cost that comprises the amount funded by the legislature to implement in accordance with RCW 41.80.010(3);
- (n) Number of bargaining unit members covered by the agreement as of the date submitted to the office of financial management;
- (o) Content of any agency-specific supplemental agreements affecting (a) through (m) of this subsection; and
- (p) Any contract provisions that allow the contract to be reopened during the contract term.

(3) For collective bargaining agreements negotiated by institutions of higher education, the institution of higher education must:

- (a) Provide the office of financial management with a searchable version of the tentatively agreed to collective bargaining agreements to be posted on the website identified in subsection (1) of this section to within forty days of submitting the agreements to the office of financial management.
- (b) Submit revisions and modifications to agreements to the office of financial management to be posted to the website identified in subsection (1) of this section within ten days of the agreement being signed by both parties.
- (c) Submit a summary of each agreement to the office of financial management by December 10th of the year in which a master agreement was negotiated or within fifteen days of a contract revision. The summary must include the information identified in subsection (2)(a) through (p) of this section.

(4) The office of financial management must also include on the website any additional information identified in budget instructions developed by the office of financial

management or that is otherwise required under RCW 43.88.030.

(5) Information on the website may include links to salary schedules, pay ranges, and other information on state or federal agency websites to summarize information. Information may include links to specific language within an agreement to summarize information.

(6) By January 1, 2018, the information under this section must be incorporated into the state expenditure information website maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

(7) The summaries of collective bargaining agreements created under this section must not disclose personally identifiable information of any bargaining unit member.

(8) The summaries of collective bargaining agreements created under this section have no legal effect on the interpretation of the agreements. [2017 3rd sp.s. c 23 § 1.]

43.88.585 Fee inventory—State expenditure information website—Work group. (1) By January 1, 2014, the office of financial management shall compile, maintain, and periodically update an inventory of all fees imposed by state agencies and institutions of higher education pursuant to statute or administrative rule. At a minimum, the inventory shall identify the agency or institution collecting the fee, the purpose of the fee, the current amount of the fee, the amount of the fee over the previous five years, and the statutory authority for the fee. The office of financial management may aggregate or consolidate fee information when there is commonality among the fee payers or the purposes for which the fee is paid.

(2) To facilitate the fee inventory under this section, each state agency and institution of higher education shall report the information required under subsection (1) of this section to the office of financial management and shall update the information at least every two years.

(3) The fee inventory under this section shall be incorporated into the state expenditure information website maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

(4) The office of financial management shall convene a work group consisting of representatives from the legislative evaluation and accountability program committee, the office of regulatory assistance, the department of licensing, the department of labor and industries, the department of transportation, and the department of health to develop a process to facilitate more frequent updates to the inventory and to recommend changes to increase public accessibility.

(5) For purposes of this section, "fee" means any charge, fixed by law or administrative rule, for the benefit of a service or to cover the cost of a regulatory program or the costs of administering a program for which the fee payer benefits. "Fee" does not include taxes; penalties or fines; intergovernmental charges; commercial charges; pension or health care contributions or rates; industrial, unemployment, or other state-operated insurance programs; or individualized cost recoveries.

(6) The requirements in this section are suspended during the 2019-2021 and 2021-2023 fiscal biennia. [2021 c 334 § 974; 2013 c 63 § 1.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

43.88.899 Intent—Periodic review. The amendments to chapter 43.88 RCW by chapter 215, Laws of 1986 are intended to improve the reporting of state budgeting, accounting, and other fiscal data. The legislative evaluation and accountability program committee shall periodically review chapter 43.88 RCW and shall recommend further revisions if needed. [1986 c 215 § 8.]

Chapter 43.88A RCW LEGISLATIVE FISCAL NOTES

Sections

- 43.88A.010 Legislative declaration.
- 43.88A.020 Preparation—Ongoing cost projections—Duties of office of financial management—School district fiscal notes.
- 43.88A.030 Distribution of fiscal notes and cost projections.
- 43.88A.040 Fiscal notes—Preparation upon request of any legislator.
- 43.88A.900 Construction of chapter.

Fiscal impact of proposed legislation on political subdivisions: Chapter 43.132 RCW.

43.88A.010 Legislative declaration. The legislature hereby recognizes the necessity of developing a uniform and coordinated procedure for determining the expected fiscal impact of bills and resolutions on state government. The legislature also recognizes that developing such statements of fiscal impact, which shall be known as fiscal notes, requires the designation of a state agency to be principally responsible therefor. [1977 ex.s. c 25 § 1.]

43.88A.020 Preparation—Ongoing cost projections—Duties of office of financial management—School district fiscal notes. The office of financial management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating and capital budgets. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

In establishing the fiscal impact called for pursuant to this chapter, the office of financial management shall coordinate the development of fiscal notes with all state agencies affected.

The preparation and dissemination of the ongoing cost projections and other requirements of RCW 43.135.031 for bills increasing taxes or fees shall take precedence over fiscal notes.

For proposed legislation that uniquely affects school districts, in addition to any fiscal note prepared under this chapter, a school district fiscal note must be prepared under the process established in RCW 28A.300.0401. [2011 c 140 § 1; 2008 c 1 § 3 (Initiative Measure No. 960, approved Novem-

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ber 6, 2007); 1994 c 219 § 3; 1979 c 151 § 146; 1977 ex.s. c 25 § 2.]

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

Finding—1994 c 219: See note following RCW 43.88.030.

43.88A.030 Distribution of fiscal notes and cost projections. When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a bill or resolution, copies shall be filed immediately with:

- (1) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;
- (2) The senate committee on ways and means, or its successor; and
- (3) The house committees on revenue and appropriations, or their successors.

Whenever possible, such fiscal note and, in the case of a bill increasing taxes or fees, the cost projection and other information required under RCW 43.135.031 shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin.

When a fiscal note has been prepared for a bill or resolution, a copy of the fiscal note shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. For bills increasing taxes or fees, the cost projection and other information required by RCW 43.135.031 shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. [2008 c 1 § 4 (Initiative Measure No. 960, approved November 6, 2007); 1986 c 158 § 16; 1979 ex.s. c 112 § 1; 1979 c 151 § 147; 1977 ex.s. c 25 § 3.]

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

43.88A.040 Fiscal notes—Preparation upon request of any legislator. The office of financial management shall also provide a fiscal note on any legislative proposal at the request of any legislator. Such fiscal note shall be returned to the requesting legislator, and copies shall be filed with the appropriate legislative committees pursuant to RCW 43.88A.030 at the time such proposed legislation is introduced in either house. [1979 c 151 § 148; 1977 ex.s. c 25 § 4.]

43.88A.900 Construction of chapter. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 ex.s. c 25 § 5.]

Chapter 43.88C RCW
CASELOAD FORECAST COUNCIL

Sections

43.88C.010	Caseload forecast council—Duties.
43.88C.020	Preparation and submittal of caseload forecasts—Cooperation of state agencies—Official state caseload forecast.
43.88C.030	Caseload forecast work group—Submittal of data by state agencies—Meetings.
43.88C.040	Sentencing information system—Sentencing manual.
43.88C.050	Research staff.
43.88C.900	Effective date—1997 c 168.

43.88C.010 Caseload forecast council—Duties. (1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are

expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of students who are eligible for the Washington college grant program under RCW 28B.92.200 and 28B.92.205 and are expected to attend an institution of higher education as defined in RCW 28B.92.030; and

(d) The number of children who are eligible, as defined in RCW 43.216.505, to participate in, and the number of children actually served by, the early childhood education and assistance program.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) By January 1, 2023, the caseload forecast council shall present the number of individuals who are assessed as eligible for and have requested a service through the individual and family services waiver and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(10) Beginning with the official forecast submitted in November 2022 and subject to the availability of amounts appropriated for this specific purpose, the caseload forecast council shall forecast the number of individuals who are assessed as eligible for and have requested supported living services, a service through the core waiver, an individual and family services waiver, and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(11) As a courtesy, beginning with the official forecast submitted in November 2022, the caseload forecast council shall forecast the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration.

(12) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

(13) The caseload forecast council shall forecast the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number of screened in reports of child abuse or neglect.

(14) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

(15) During the 2021-2023 fiscal biennium, and beginning with the November 2021 forecast, the caseload forecast council shall produce an unofficial forecast of the long-term caseload for juvenile rehabilitation as a courtesy. [2022 c 219 § 2; 2021 c 334 § 975; 2020 c 352 § 1; 2019 c 406 § 24; 2018 c 208 § 4; 2015 c 128 § 2; 2013 c 332 § 11; 2012 c 217 § 3; 2011 c 304 § 2; 2000 c 90 § 1; 1997 c 168 § 1.]

Findings—Intent—2022 c 219: See note following RCW 71A.18.060.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Findings—Intent—2019 c 406: See note following RCW 43.79.195.

Findings—Short title—2019 c 406: See notes following RCW 28B.92.200.

Findings—2019 c 406: See note following RCW 28B.94.020.

Findings—Intent—2019 c 406: See note following RCW 28C.30.050.

Findings—Intent—2019 c 406: See note following RCW 43.216.135.

Findings—Recommendations—Application—2013 c 332: See notes following RCW 13.34.267.

Effective date—2012 c 217: See note following RCW 74.08A.341.

Additional notes found at www.leg.wa.gov

43.88C.020 Preparation and submittal of caseload forecasts—Cooperation of state agencies—Official state caseload forecast. (1) In consultation with the caseload forecast work group established under RCW 43.88C.030, and subject to the approval of the caseload forecast council under RCW 43.88C.010, the supervisor shall prepare:

- (a) An official state caseload forecast; and
- (b) Other caseload forecasts based on alternative assumptions as the council may determine.

(2) The supervisor shall submit caseload forecasts prepared under this section, along with any unofficial forecasts provided under RCW 43.88C.010, to the governor and the members of the legislative fiscal committees, including one copy to the staff of each of the committees. The forecasts shall be submitted at least three times each year and on such dates as the council determines will facilitate the development of budget proposals by the governor and the legislature.

(3) All agencies of state government shall provide to the supervisor immediate access to all information relating to caseload forecasts.

(4) The administrator of the legislative evaluation and accountability program committee may request, and the supervisor shall provide, alternative caseload forecasts based on assumptions specified by the administrator.

(5) The official state caseload forecast under this section shall be the basis of the governor's budget document as provided in RCW 43.88.030 and utilized by the legislature in the development of the omnibus biennial appropriations act. [1997 c 168 § 2.]

43.88C.030 Caseload forecast work group—Submittal of data by state agencies—Meetings. (1) To promote the free flow of information and to promote legislative and executive input in the development of assumptions and preparation of forecasts, immediate access to all information and statistical models relating to caseload forecasts shall be available to the caseload forecast work group, hereby created. Each state agency affected by caseloads shall submit caseload reports and data to the council as soon as the reports and data are available and shall provide to the council and the supervisor such additional raw, program-level data or information as may be necessary for discharge of their respective duties.

(2) The caseload forecast work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies, programs, or committees:

- (a) Office of financial management;
- (b) Ways and means committee, or its successor, of the senate;
- (c) Appropriations committee, or its successor, of the house of representatives;
- (d) Legislative evaluation and accountability program committee; and

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(e) Each state program for which the council forecasts the caseload.

(3) The caseload forecast work group shall provide technical support to the caseload forecast council. Meetings of the caseload forecast work group may be called by any member of the group for the purpose of assisting the council, reviewing forecasts, or for any other purpose that may assist the council. [1997 c 168 § 3.]

43.88C.040 Sentencing information system—Sentencing manual. (1) The caseload forecast council shall develop and maintain a computerized adult and juvenile sentencing information system consisting of offender, offense, history, and sentence information entered from the judgment and sentence forms for all adult felons.

(2) As part of its duties in maintaining the sentencing information system, the caseload forecast council shall:

- (a) On an annual basis, publish a statistical summary of adult felony sentencing and juvenile dispositions;
- (b) Publish and maintain an adult felony sentencing manual; and
- (c) Publish and maintain a juvenile sentencing manual.

(3) The sentencing manuals are intended only as a guide to assist practitioners in determining appropriate sentencing ranges. The manuals are not a substitute for the actual statutes, which list the sentencing ranges, or for any other information contained within this chapter. The caseload forecast council is not liable for errors or omissions in the manual, for sentences that may be inappropriately calculated as a result of a practitioner's or court's reliance on the manual, or for any other written or verbal information provided by the caseload forecast council or its staff related to adult or juvenile sentencing.

(4) In publishing materials required by this section, the caseload forecast council shall make the materials available on its website. The caseload forecast council may charge a reasonable cost for producing and distributing hard copies of any materials. [2011 1st sp.s. c 40 § 28.]

Additional notes found at www.leg.wa.gov

43.88C.050 Research staff. The caseload forecast council shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties. The caseload forecast council may request from the administrative office of the courts, the department of children, youth, and families, the department of corrections, the health care authority, the superintendent of public instruction, the Washington student achievement council, the department of social and health services, and other agencies with caseloads forecasted by the council, such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without cost to the caseload forecast council. [2018 c 58 § 15; 2015 c 128 § 3; 2011 1st sp.s. c 40 § 29.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Additional notes found at www.leg.wa.gov

43.88C.900 Effective date—1997 c 168. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its

existing public institutions, and takes effect July 1, 1997. [1997 c 168 § 8.]

Chapter 43.88D RCW
HIGHER EDUCATION CAPITAL PROJECT
STRATEGIC PLANNING

Sections

43.88D.010 Capital budget projects—Objective analysis and scoring—Prioritized lists.

43.88D.010 Capital budget projects—Objective analysis and scoring—Prioritized lists. (1) By October 1st of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees and the four-year institutions. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at all campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings. Facilities that cannot be economically renovated are considered replacement projects. New space may be programmed for the same or a different use than the space being replaced and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

(e) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

(f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state

board for community and technical colleges and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions. The office of financial management, in consultation with the legislative fiscal committees, shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August 1st of each even-numbered year each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

(8) For the 2019-2021 fiscal biennium and the 2021-2023 fiscal biennium, pursuant to subsection (1) of this section, by November 1, 2022, the office of financial management must score higher education capital project criteria with a rating scale that assesses how well a particular project satisfies those criteria. The office of financial management may not use a rating scale that weighs the importance of those criteria.

(9) For the 2019-2021 fiscal biennium and the 2021-2023 fiscal biennium, pursuant to subsection (6)(a) of this section and in lieu of the requirements of subsection (7) of this section, by August 15, 2022, the institutions of higher education shall prepare and submit or resubmit to the office of financial management and the legislative fiscal committees:

(a) Individual project proposals developed pursuant to subsection (1) of this section;

(b) Individual project proposals scored in prior biennia pursuant to subsection (1) of this section; and

(c) A prioritized list of up to five project proposals submitted pursuant to (a) and (b) of this subsection. [2021 c 332 § 7034; 2019 c 413 § 7032; 2018 c 298 § 7013; 2017 c 52 § 15; 2012 c 229 § 821; 2010 c 245 § 9; 2008 c 205 § 2.]

Effective date—2021 c 332: See note following RCW 43.19.501.

Effective date—2019 c 413: See note following RCW 28B.15.210.

Effective date—2018 c 298: See note following RCW 79.17.210.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Findings—Expand on demand—System design plan endorsed—2010 c 245: See note following RCW 28B.50.020.

Chapter 43.89 RCW

TELETYPEWRITER COMMUNICATIONS NETWORK

Sections

- 43.89.010 Communications network—Establishment—Use—Charges—Duties of chief of state patrol.
- 43.89.030 Connection with and participation in network by political subdivisions.
- 43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability.

43.89.010 Communications network—Establishment—Use—Charges—Duties of chief of state patrol.

The chief of the Washington state patrol is hereby authorized to establish a communications network which will inter-connect the law enforcement agencies of the state and its political subdivisions into a unified written communications system. The chief of the Washington state patrol is authorized to lease or purchase such facilities and equipment as may be necessary to establish and maintain the communications network.

(1) The communications network shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(2) This section does not prohibit the occasional use of the state's communications network by any other state or public agency thereof when the messages transmitted relate to the enforcement of the criminal laws of the state.

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(3) The chief of the Washington state patrol shall fix the monthly operational charge to be paid by any department or agency of state government, or any city, county, city and county, or other public agency participating in the communications network: PROVIDED, That in computing charges to be made against a city, county, or city and county the state shall bear at least fifty percent of the costs of such service as its share in providing a modern unified communications network to the law enforcement agencies of the state. Of the fees collected pursuant to this section, one-half shall be deposited in the motor vehicle fund and one-half shall be deposited in the state patrol highway account. However, for the 2009-2011 fiscal biennium the fees collected pursuant to this section shall be deposited in the state general fund.

(4) The chief of the Washington state patrol is authorized to arrange for the connection of the communications network with the law enforcement communications system of any adjacent state, or the Province of British Columbia, Canada. [2010 1st sp.s. c 37 § 930; 2000 2nd sp.s. c 4 § 7; 1993 sp.s. c 23 § 63; 1965 ex.s. c 60 § 2; 1965 c 8 § 43.89.010. Prior: 1963 c 160 § 1.]

Additional notes found at www.leg.wa.gov

43.89.030 Connection with and participation in network by political subdivisions.

Any city, county, city and county, or other public agency may connect with and participate in the teletypewriter communications network subject to the rules, regulations, procedures and methods of operation adopted by the state communications advisory committee: PROVIDED, That such city, county, city and county, or other public agency shall first agree to pay such installation charges as may be necessary for such connection and such monthly operational charges as may be established by the chief of the Washington state patrol. [1965 ex.s. c 60 § 4; 1965 c 8 § 43.89.030. Prior: 1963 c 160 § 3.]

43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability.

The transfer of the powers, duties, and functions relating to the state teletypewriter communication network from the director of budget to the chief of the Washington state patrol shall not terminate or affect the liability of the state accruing with respect to such communications network to any person, company, or corporation. [1965 ex.s. c 60 § 5.]

Chapter 43.92 RCW

GEOLOGICAL SURVEY

Sections

- 43.92.010 State geologist.
- 43.92.020 Objects of survey.
- 43.92.025 Seismic, landslide, and tsunami hazards—Assessment—Technical assistance.
- 43.92.040 Printing and distribution of reports.
- 43.92.060 Cooperation with federal geological survey.
- 43.92.070 Topographic map—Stream measurements.
- 43.92.080 Entry on lands authorized.
- 43.92.900 Intent—2006 c 340.

Reviser's note: The powers, duties and functions of the department of conservation with respect to geology as set forth in chapter 43.92 RCW were transferred to the department of natural resources by 1967 c 242 § 15 [RCW 43.27A.130].

[Title 43 RCW—page 537]

43.92.010 State geologist. There shall be a geological survey of the state that shall be under the direction of the commissioner of public lands who shall have general charge of the survey, and shall appoint as supervisor of the survey a geologist of established reputation, to be known as the state geologist. [2006 c 340 § 2; 1988 c 127 § 28; 1965 c 8 § 43.92.010. Prior: 1901 c 165 § 1; 1890 p 647 § 1; 1890 p 249 § 1; RRS § 5993.]

43.92.020 Objects of survey. The geological survey shall have for its objects:

(1) An examination of the economic products of the state, including: Gold, silver, copper, lead, and iron ores, as well as building stones, clays, coal, and all mineral substances of value;

(2) An examination and classification of soils, and the study of their adaptability to particular crops;

(3) An investigation and report upon the water supplies, artesian wells, the water power of the state, gauging the streams, etc., with reference to their application for irrigation and other purposes;

(4) An examination and report upon the occurrence of different road building material;

(5) An examination of the physical features of the state with reference to their practical bearing upon the occupations of the people;

(6) The preparation of special geological and economic maps to illustrate the resources of the state;

(7) The preparation of special reports with necessary illustrations and maps, which shall embrace both the general and detailed description of the geology and natural resources of the state; and

(8) The consideration of similar scientific and economic questions that, in the judgment of the state geologist, is deemed of value to the people of the state. [2006 c 340 § 3; 1965 c 8 § 43.92.020. Prior: 1901 c 165 § 2; 1890 p 249 § 3; 1890 p 648 §§ 3, 4, 5, 6, 7; RRS § 5994.]

43.92.025 Seismic, landslide, and tsunami hazards—Assessment—Technical assistance. (1) In addition to the objectives stated in RCW 43.92.020, the geological survey must conduct and maintain an assessment of seismic, landslide, and tsunami hazards in Washington. This assessment must apply the best practicable technology, including light detection and ranging (lidar) mapping, to identify and map volcanic, seismic, landslide, and tsunami hazards, and estimate potential hazard consequences and the likelihood of a hazard occurring.

(2) The geological survey must:

(a) Coordinate with state and local government agencies to compile existing data, including geological hazard maps and geotechnical reports, tending to inform geological hazard planning decisions;

(b) Acquire and process new data or update deficient data using the best practicable technology, including lidar;

(c) Create and maintain an efficient, publicly available database of lidar and geological hazard maps and geotechnical reports collected under (a) and (b) of this subsection; and

(d) Provide technical assistance to state and local government agencies on the proper interpretation and application

of the results of the geological hazards assessment. [2015 c 12 § 1; 2006 c 340 § 4.]

43.92.040 Printing and distribution of reports. Regular and special reports of the geological survey, with proper illustrations and maps, shall be printed as directed by the state geologist. All reports shall be distributed or sold by the department of natural resources as the interests of the state and of science demand. All money obtained by the sale of reports under this section shall be paid into the state treasury. [2006 c 340 § 5; 1965 c 8 § 43.92.040. Prior: 1901 c 165 § 4; RRS § 5996.]

43.92.060 Cooperation with federal geological survey. The state geologist may make provisions for topographic, geologic, and hydrographic surveys of the state in cooperation with the United States geological survey in such manner as in the opinion of the state geologist will be of the greatest benefit to the agricultural, industrial, and geological requirements of the state. However, the director of the United States geological survey must first agree to expend on the part of the United States upon such surveys a sum equal to that expended by the state. [2006 c 340 § 6; 1965 c 8 § 43.92.060. Prior: 1903 c 157 § 1; 1901 c 165 § 6; RRS § 5998.]

43.92.070 Topographic map—Stream measurements. In order to complete the topographic map of the state and for the purpose of making more extensive stream measurements, and otherwise investigating and determining the water supply of the state, the state geologist may enter into such agreements with the director of the United States geological survey as will ensure that the surveys and investigations be carried on in the most economical manner, and that the maps and data be available for the use of the public as quickly as possible. [2006 c 340 § 7; 1965 c 8 § 43.92.070. Prior: 1909 c 245 § 1; RRS § 5999.]

43.92.080 Entry on lands authorized. In order to carry out the purposes of this chapter, all persons employed by the department of natural resources to carry out the duties of this chapter are authorized to enter and cross all land within the state as long as no damage is done to private property. [2006 c 340 § 8; 1965 c 8 § 43.92.080. Prior: 1909 c 245 § 3; RRS § 6000.]

43.92.900 Intent—2006 c 340. It is the intent of the legislature that there be an effective state geological survey that can produce essential information that provides for the health, safety, and economic well-being of the citizens. [2006 c 340 § 1.]

Chapter 43.97 RCW

COLUMBIA RIVER GORGE COMPACT

Sections

43.97.015	Columbia River Gorge Compact—Columbia River Gorge commission.
43.97.025	Grant of authority—Appointment of members to commission—Vacancies.
43.97.035	Commission members—Compensation—Travel expenses.

43.97.015 Columbia River Gorge Compact—Columbia River Gorge commission. The legislature of the State of Washington hereby ratifies the Columbia River Gorge Compact set forth below, and the provisions of such compact hereby are declared to be the law of this state upon such compact becoming effective as provided in Article III.

A compact is entered into by and between the states of Washington and Oregon, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled, "The Columbia River Gorge National Scenic Area Act," P.L. 99-663.

ARTICLE I

COLUMBIA GORGE COMMISSION ESTABLISHED

a. The States of Oregon and Washington establish by way of this interstate compact a regional agency known as the Columbia River Gorge Commission. The commission established in accordance with this compact shall have the power and authority to perform all functions and responsibilities in accordance with the provisions of this compact and of the Columbia River Gorge National Scenic Area Act (the federal Act), which is incorporated by this specific reference in this agreement. The commission's powers shall include, but not be limited to:

1. The power to sue and be sued.
2. The power to disapprove a land use ordinance enacted by a county if the ordinance is inconsistent with the management plan, as provided in P.L. 96-663, Sec. 7(b)(3)(B).
3. The power to enact a land use ordinance setting standards for the use of nonfederal land in a county within the scenic area if the county fails to enact land use ordinances consistent with the management plan, as provided in P.L. 99-663, Sec. 7(c).
4. According to the provisions of P.L. 99-663, Sec. 10(c), the power to review all proposals for major development action and new residential development in each county in the scenic area, except urban areas, and the power to disapprove such development if the commission finds the development is inconsistent with the purposes of P.L. 99-663.

b. The commission shall appoint and remove or discharge such personnel as may be necessary for the performance of the commission's functions, irrespective of the civil service, personnel or other merit system laws of any of the party states.

c. The commission may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivors insurance provided that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

d. The commission shall obtain the services of such professional, technical, clerical and other personnel as may be deemed necessary to enable it to carry out its functions under this compact. The commission may borrow, accept, or contract for the services of personnel from any state of the United States or any subdivision or agency thereof, from any inter-

state agency, or from any institution, person, firm or corporation.

e. Funds necessary to fulfill the powers and duties imposed upon and entrusted to the commission shall be provided as appropriated by the legislatures of the states in accordance with Article IV. The commission may also receive gifts, grants, endowments and other funds from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, endowments or other funds.

f. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold and convey real and personal property and any interest therein.

g. The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The commission shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof and of any amendment thereto, with the appropriate agency or officer in each of the party states.

ARTICLE II

THE COMMISSION MEMBERSHIP

a. The commission shall be made up of twelve voting members appointed by the states, as set forth herein, and one non-voting member appointed by the U.S. Secretary of Agriculture.

b. Each state governor shall appoint the members of the commission as provided in the federal Act (three members who reside in the State of Oregon, including one resident of the scenic area, to be appointed by the Governor of Oregon, and three members who reside in the State of Washington, including one resident of the scenic area, appointed by the Governor of Washington).

c. One additional member shall be appointed by the governing body of each of the respective counties of Clark, Klickitat, and Skamania in Washington, and Hood River, Multnomah, and Wasco in Oregon, provided that in the event the governing body of a county fails to make such an appointment, the Governor of the state in which the county is located shall appoint such a member.

d. The terms of the members and procedure for filling vacancies shall all be as set forth in the federal Act.

ARTICLE III

EFFECTIVE DATE OF COMPACT AND COMMISSION

This compact shall take effect, and the commission may exercise its authorities pursuant to the compact and pursuant to the Columbia River Gorge National Scenic Area Act when it has been ratified by both states and upon the appointment of four initial members from each state. The date of this compact shall be the date of the establishment of the commission.

ARTICLE IV

FUNDING

a. The States of Washington and Oregon hereby agree to provide by separate agreement or statute of each state for

funding necessary to effectuate the commission, including the establishment of compensation or expenses of commission members from each state which shall be paid by the state of origin.

b. The commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

c. Subject to appropriation by their respective legislatures, the commission shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the commission.

d. The commission's proposed budget and expenditures shall be apportioned equally between the states.

e. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by the appropriate state auditing official and the report of the audit shall be included in and become a part of the annual report of the commission.

f. The accounts of the commission shall be open at any reasonable time for inspection by the public.

ARTICLE V SEVERABILITY

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid, and to this end the provisions of this compact are severable. [1987 c 499 § 1.]

43.97.025 Grant of authority—Appointment of members to commission—Vacancies. (1) The governor, the Columbia River Gorge commission, and all state agencies and counties are hereby directed and provided authority to carry out their respective functions and responsibilities in accordance with the compact executed pursuant to RCW 43.97.015, the Columbia River Gorge National Scenic Area Act, and the provisions of this chapter.

(2) The governor shall appoint three members of the Columbia River Gorge commission who reside in the state of Washington, at least one of whom shall be a resident of the scenic area as defined in the act.

(3)(a) The governing bodies of Clark, Klickitat, and Skamania counties shall each appoint one member of the Columbia River Gorge commission.

(b) In the event the governing body of a county fails to make the appointments prescribed in section 5(a)(c)(1) of that act and (a) of this subsection, the governor shall appoint any such member.

(4) Each member appointed by the governor shall be subject to confirmation by the Washington state senate and shall serve at the pleasure of the governor until their term shall expire or until a disqualifying change in residence.

(5) Of those members appointed to the Columbia River Gorge commission by the governing body of the counties of Clark, Klickitat, and Skamania, the governor shall designate one member to serve for a term of five years and one to serve for six years. Of those members appointed directly by the governor pursuant to RCW 43.97.015, the governor shall designate one to serve a term of five years and one to serve a term of six years. All other members shall serve a period of four years.

Neither the governor nor governing body of any of the counties may appoint federal, state, or local elected or appointed officials as members to the Columbia River Gorge commission.

Vacancies shall be filled in accordance with the appointing procedure for the commission member occupying the seat before its vacancy. [1987 c 499 § 2.]

43.97.035 Commission members—Compensation—Travel expenses. Members of the Columbia River Gorge commission appointed for Washington shall receive compensation for their services pursuant to RCW 43.03.240, and shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060, and regulations adopted pursuant thereto. [1987 c 499 § 3.]

Chapter 43.99G RCW BONDS FOR CAPITAL PROJECTS

Sections

2002 BOND ISSUE

- 43.99G.120 General obligation bonds authorized.
- 43.99G.122 Proceeds—Deposit—Use.
- 43.99G.124 Retirement of bonds from debt-limit general fund bond retirement account.
- 43.99G.126 Pledge and promise—Remedies of bondholders.
- 43.99G.128 Additional means for payment of bonds.
- 43.99G.130 Bonds legal investment for public funds.

2006 BOND ISSUE FOR STATE CORRECTIONAL FACILITIES

- 43.99G.150 General obligation bonds authorized—Expiration of authority to issue.
- 43.99G.152 Proceeds—Deposit—Use.
- 43.99G.154 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders.
- 43.99G.156 Additional means for payment of bonds.
- 43.99G.158 Bonds legal investment for public funds.

2006 BOND ISSUE FOR THE COLUMBIA RIVER BASIN WATER SUPPLY DEVELOPMENT PROGRAM

- 43.99G.160 General obligation bonds authorized.
- 43.99G.161 Appropriation of bond proceeds over multiple biennia.
- 43.99G.162 Proceeds—Deposit—Use.
- 43.99G.164 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders.
- 43.99G.166 Additional means for payment of bonds.
- 43.99G.168 Bonds legal investment for public funds.

2006 BOND ISSUE FOR THE HOOD CANAL AQUATIC REHABILITATION PROGRAM

- 43.99G.170 General obligation bonds authorized—Expiration of authority to issue.
- 43.99G.171 Appropriation of bond proceeds—Use for wastewater and clean water improvement projects.
- 43.99G.172 Proceeds—Deposit—Use.
- 43.99G.174 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders.
- 43.99G.176 Additional means for payment of bonds.

- 43.99G.178 Bonds legal investment of public funds.
43.99G.179 Hood Canal aquatic rehabilitation bond account.

2006 BOND ISSUE FOR
PUGET SOUND REHABILITATION

- 43.99G.180 General obligation bonds authorized.
43.99G.181 Appropriation of bond proceeds—Use for wastewater and clean water improvement projects.
43.99G.182 Proceeds—Deposit—Use.
43.99G.184 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders.
43.99G.186 Additional means for payment of bonds.
43.99G.188 Bonds legal investment of public funds.

CONSTRUCTION

- 43.99G.903 Effective date—2002 c 240.
43.99G.905 Effective date—2006 c 167.

2002 BOND ISSUE

43.99G.120 General obligation bonds authorized.

For the purpose of providing funds for the construction, reconstruction, planning, design, and other necessary costs of the various facilities defined in chapter 238, Laws of 2002, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighty-nine million seven hundred thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2002 c 240 § 1.]

43.99G.122 Proceeds—Deposit—Use. (1) The proceeds from the sale of the bonds authorized in RCW 43.99G.120 shall be deposited in the state building construction account created by RCW 43.83.020, with eighty-seven million five hundred thousand dollars to remain in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.120 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2002 c 240 § 2.]

43.99G.124 Retirement of bonds from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.120.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99G.120.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99G.120 the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2002 c 240 § 3.]

43.99G.126 Pledge and promise—Remedies of bondholders. (1) Bonds issued under RCW 43.99G.120 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2002 c 240 § 4.]

43.99G.128 Additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.120, and RCW 43.99G.122 and 43.99G.124 shall not be deemed to provide an exclusive method for the payment. [2002 c 240 § 5.]

43.99G.130 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.120 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2002 c 240 § 6.]

2006 BOND ISSUE FOR STATE CORRECTIONAL
FACILITIES

43.99G.150 General obligation bonds authorized—Expiration of authority to issue. (1) For the purpose of providing funds for state correctional facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty-nine million three hundred thousand dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

(2) If any bonds authorized in this chapter have not been issued by June 30, 2018, the authority of the state finance committee to issue such remaining unissued bonds expires June 30, 2018. [2018 c 3 § 301; 2006 c 167 § 101.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.99G.152 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.150 shall be deposited in the state building construction account created in RCW 43.83.020. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.150 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.150 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2006 c 167 § 102.]

43.99G.154 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders. The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.150.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.150 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 103.]

43.99G.156 Additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.150, and RCW 43.99G.154 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 104.]

43.99G.158 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.150 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 105.]

2006 BOND ISSUE FOR THE COLUMBIA RIVER BASIN WATER SUPPLY DEVELOPMENT PROGRAM

43.99G.160 General obligation bonds authorized. For the purpose of providing funds for the Columbia river basin water supply development program, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two hundred million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2006 c 167 § 201.]

43.99G.161 Appropriation of bond proceeds over multiple biennia. It is the intent of the legislature that the proceeds of the new bonds authorized in RCW 43.99G.160 will be appropriated in phases over five biennia, beginning with the 2005-2007 biennium. This is not intended to limit the legislature's ability to appropriate bond proceeds if the full amount authorized in RCW 43.99G.160 has not been appropriated after five biennia. The authorization to issue bonds contained in RCW 43.99G.160 does not expire until the full authorization has been appropriated and issued. [2006 c 167 § 202.]

43.99G.162 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.160 shall be deposited in the Columbia river basin water supply development account created in chapter 6, Laws of 2006. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.160 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the Columbia river basin taxable bond water supply development account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the Columbia river basin taxable bond water supply development account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.160 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2013 2nd sp.s. c 20 § 6; 2006 c 167 § 203.]

Effective date—2013 2nd sp.s. c 20: See RCW 43.99Y.900.

43.99G.164 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders. The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.160.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and

interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.160 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 204.]

43.99G.166 Additional means for payment of bonds.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.160, and RCW 43.99G.164 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 205.]

43.99G.168 Bonds legal investment for public funds.

The bonds authorized in RCW 43.99G.160 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 206.]

2006 BOND ISSUE FOR THE HOOD CANAL
AQUATIC REHABILITATION PROGRAM

43.99G.170 General obligation bonds authorized—

Expiration of authority to issue. (1) For the purpose of providing funds for the Hood Canal aquatic rehabilitation program, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million nine hundred twenty thousand dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

(2) If any bonds authorized in this chapter have not been issued by June 30, 2018, the authority of the state finance committee to issue such remaining unissued bonds expires June 30, 2018. [2018 c 3 § 302; 2006 c 167 § 301.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.99G.171 Appropriation of bond proceeds—Use for wastewater and clean water improvement projects.

(1) It is the intent of the legislature that the proceeds of the new bonds authorized in RCW 43.99G.170 will be appropriated in the 2005-2007 biennium.

(2) A portion of the bonds issued under RCW 43.99G.170 are intended to be used for wastewater and clean water improvement projects at state parks as part of the Hood Canal aquatic rehabilitation program. State parks intended to

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be improved by the bond proceeds authorized in RCW 43.99G.170 include, but are not limited to, the following:

(a) Approximately one hundred thousand dollars for Twanoh state park;

(b) Approximately one million two hundred thousand dollars for Dosewallips state park;

(c) Approximately seven hundred thousand dollars for Belfair state park;

(d) Approximately one million fifty thousand dollars for Potlatch state park;

(e) Approximately five hundred thousand dollars for Kitsap Memorial state park;

(f) Approximately nine hundred thousand dollars for Scenic Beach state park;

(g) Approximately three hundred thousand dollars for Twanoh and Triton Cove state parks;

(h) Approximately eight hundred fifty thousand dollars for Shine Tidelands state park;

(i) Approximately one hundred fifty thousand dollars for Pleasant Harbor state park; and

(j) Approximately one hundred seventy thousand dollars for Triton Cove state park. [2006 c 167 § 302.]

43.99G.172 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.170 shall be deposited in the Hood Canal aquatic rehabilitation bond account created in RCW 43.99G.179. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.170 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.170 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2006 c 167 § 303.]

43.99G.174 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders.

The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.170.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.170 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 304.]

43.99G.176 Additional means for payment of bonds.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.170, and RCW 43.99G.174 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 305.]

43.99G.178 Bonds legal investment of public funds.

The bonds authorized in RCW 43.99G.170 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 306.]

43.99G.179 Hood Canal aquatic rehabilitation bond account. The Hood Canal aquatic rehabilitation bond account is created in the state treasury. All receipts from proceeds from the bonds issued under RCW 43.99G.170 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for programs and projects to protect and restore Hood Canal, including implementing RCW 90.88.020 and 90.88.030. [2006 c 167 § 307.]

2006 BOND ISSUE FOR
PUGET SOUND REHABILITATION

43.99G.180 General obligation bonds authorized.

For the purpose of providing funds for the rehabilitation of Puget Sound, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million three hundred seventy-five thousand dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2006 c 167 § 401.]

43.99G.181 Appropriation of bond proceeds—Use for wastewater and clean water improvement projects.

(1) It is the intent of the legislature that the proceeds of the new bonds authorized in RCW 43.99G.180 will be appropriated in the 2005-2007 biennium.

(2) The bonds issued under RCW 43.99G.180 are intended to be used for wastewater and clean water improvement projects at state parks as part of the rehabilitation of Puget Sound. State parks intended to be improved by the bond proceeds authorized in RCW 43.99G.180 include, but are not limited to, the following:

- (a) Approximately one hundred twenty-five thousand dollars for Sequim Bay state park;
- (b) Approximately seven hundred fifty thousand dollars for Fort Flagler state park;
- (c) Approximately seven hundred fifty thousand dollars for Larabee state park;
- (d) Approximately three hundred thousand dollars for Fort Worden state park;
- (e) Approximately three hundred thousand dollars for Camano Island state park;
- (f) Approximately three hundred fifty thousand dollars for Deception Pass state park;
- (g) Approximately two hundred fifty thousand dollars for Possession Point;
- (h) Approximately one million one hundred thousand dollars for Illahee state park;
- (i) Approximately one million two hundred thousand dollars for Kopachuck state park;
- (j) Approximately seven hundred thousand dollars for Penrose Point state park;
- (k) Approximately two hundred fifty thousand dollars for Blake Island state park; and
- (l) Approximately one million three hundred thousand dollars for Fay Bainbridge state park. [2006 c 167 § 402.]

43.99G.182 Proceeds—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 43.99G.180 shall be deposited in the state building construction account created in RCW 43.83.020. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.99G.180 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposit otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. The proceeds shall be used exclusively for the purposes specified in RCW 43.99G.180 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management, subject to legislative appropriation. [2006 c 167 § 403.]

43.99G.184 Retirement of bonds from debt-limit general fund bond retirement account—Pledge and promise—Remedies of bondholders. The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.180.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99G.180 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2006 c 167 § 404.]

43.99G.186 Additional means for payment of bonds.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.180, and RCW 43.99G.184 shall not be deemed to provide an exclusive method for the payment. [2006 c 167 § 405.]

43.99G.188 Bonds legal investment of public funds.

The bonds authorized in RCW 43.99G.180 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2006 c 167 § 406.]

CONSTRUCTION

43.99G.903 Effective date—2002 c 240. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2002]. [2002 c 240 § 11.]

43.99G.905 Effective date—2006 c 167. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2006]. [2006 c 167 § 506.]

**Chapter 43.99H RCW
FINANCING FOR APPROPRIATIONS—1989-1991
BIENNIUM**

Sections

- 43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
- 43.99H.020 Conditions and limitations.
- 43.99H.030 Retirement of bonds.
- 43.99H.040 Retirement of bonds.
- 43.99H.050 Pledge and promise—Remedies.
- 43.99H.060 Reimbursement of general fund.
- 43.99H.070 East capitol campus construction account—Additional means of reimbursement.
- 43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and interest.
- 43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment.
- 43.99H.100 Expiration of authority to issue bonds.
- 43.99H.901 Effective dates—1989 1st ex.s. c 14.

43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much

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thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1989-1991 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto, and to provide for reimbursement of bond-funded accounts from the 1987-1989 fiscal biennium.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1990 1st ex.s. c 15 § 1; 1989 1st ex.s. c 14 § 1.]

Additional notes found at www.leg.wa.gov

43.99H.020 Conditions and limitations. Bonds issued under RCW 43.99H.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1989-91 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects, and to provide for reimbursement of bond-funded accounts from the 1987-89 fiscal biennium. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Thirty million dollars to the state and local improvements revolving account—waste disposal facilities, created by RCW 43.83.330, to be used for the purposes described in *RCW 43.83A.020;

(2) Five million three hundred thousand dollars to the salmon enhancement construction account created by **RCW 75.48.030;

(3) One hundred twenty million dollars to the state and local improvements revolving account—waste disposal facil-

ities, 1980 created by RCW 43.83.350, to be used for the purposes described in RCW 43.83.350;

(4) Forty million dollars to the common school construction fund as referenced in RCW 28A.515.320.

(5) Three million two hundred thousand dollars to the state higher education construction account created by RCW 43.83.300;

(6) Eight hundred five million dollars to the state building construction account created by RCW 43.83.020;

(7) Nine hundred fifty thousand dollars to the higher education reimbursable short-term bond account created by RCW 43.83.320;

(8) Twenty-nine million seven hundred thirty thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(9) Sixty million dollars to the state and local improvements revolving account—water supply facilities, created by RCW 43.83.340 to be used for the purposes described in RCW 43.83.340;

(10) Four million three hundred thousand dollars to the state social and health services construction account created by RCW 43.83.360;

(11) Two hundred fifty thousand dollars to the fisheries capital projects account created by RCW 43.83.370;

(12) Four million nine hundred thousand dollars to the state building construction account created by RCW 43.83.020;

(13) Two million three hundred thousand dollars to the essential rail assistance account created by RCW 47.76.250;

(14) One million one hundred thousand dollars to the essential rail bank account hereby created in the state treasury;

(15) Seventy-three million dollars to the east capitol campus construction account hereby created in the state treasury;

(16) Eight million dollars to the higher education construction account created in RCW 43.83.310;

(17) Sixty-three million two hundred thousand dollars to the labor and industries construction account hereby created in the state treasury;

(18) Seventy-five million dollars to the higher education construction account created by RCW 43.83.310;

(19) Twenty-six million five hundred fifty thousand dollars to the habitat conservation account hereby created in the state treasury; and

(20) Eight million dollars to the public safety reimbursable bond account hereby created in the state treasury.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Bonds authorized for the purposes of subsection (17) of this section shall be issued only after the director of the department of labor and industries has certified, based on reasonable estimates, that sufficient revenues will be available from the accident fund created in RCW 51.44.010 and the medical aid fund created in RCW 51.44.020 to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Bonds authorized for the purposes of subsection (18) of this section shall be issued only after the board of regents of the University of Washington has certified, based on reasonable estimates, that sufficient revenues will be available from nonappropriated local funds to meet the requirements of RCW 43.99H.060(4) during the life of the bonds. [2015 1st sp.s. c 4 § 42. Prior: 1990 1st ex.s. c 15 § 2; 1990 c 33 § 582; 1989 1st ex.s. c 14 § 2.]

Reviser's note: *(1) RCW 43.83A.020 was decodified pursuant to 2015 1st sp.s. c 4 § 21. Reference to RCW 43.83A.030, recodified as RCW 43.83.330 by 2015 1st sp.s. c 4 § 58, was apparently intended.

***(2) RCW 75.48.030 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

43.99H.030 Retirement of bonds. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99H.020 (1) through (3), (5) through (14), and (19) shall be payable from the debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 19; 1991 sp.s. c 31 § 13; 1990 1st ex.s. c 15 § 4; 1989 1st ex.s. c 14 § 3.]

Additional notes found at www.leg.wa.gov

43.99H.040 Retirement of bonds. (1) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(16) shall be payable from the nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(2) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(15) shall be payable from the debt-limit reimbursable bond retirement account and nondebt-limit reimbursable bond retirement account as set forth under RCW 43.99H.060(2).

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit reimbursable bond retirement account and nondebt-limit reimbursable bond retirement account as set forth under RCW 43.99H.060(2)

such amounts and at such times as are required by the bond proceedings.

(3) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(17) shall be payable from the nondebt-limit proprietary appropriated bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit proprietary appropriated bond retirement account such amounts and at such times as are required by the bond proceedings.

(4) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(18) shall be payable from the nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(5) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(20) shall be payable from the nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(6) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(4) shall be payable from the nondebt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 20; 1991 sp.s. c 31 § 14; 1990 1st ex.s. c 15 § 5; 1989 1st ex.s. c 14 § 4.]

Additional notes found at www.leg.wa.gov

43.99H.050 Pledge and promise—Remedies. Bonds issued under RCW 43.99H.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

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The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1989 1st ex.s. c 14 § 5.]

43.99H.060 Reimbursement of general fund. (1) For bonds issued for the purposes of RCW 43.99H.020(16), on each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of Washington State University shall cause the amount computed in RCW 43.99H.040(1) to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury.

(2) For bonds issued for the purposes of RCW 43.99H.020(15), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer the amount computed in RCW 43.99H.040(2) from the capitol campus reserve account, hereby created in the state treasury, to the general fund of the state treasury. At the time of sale of the bonds issued for the purposes of RCW 43.99H.020(15), and on or before June 30th of each succeeding year while such bonds remain outstanding, the state finance committee shall determine, based on current balances and estimated receipts and expenditures from the capitol campus reserve account, that portion of principal and interest on such RCW 43.99H.020(15) bonds which will, by virtue of payments from the capitol campus reserve account, be reimbursed from sources other than "general state revenues" as that term is defined in Article VIII, section 1 of the state Constitution.

(3) For bonds issued for the purposes of RCW 43.99H.020(17), on each date on which any interest or principal and interest payment is due, the director of the department of labor and industries shall cause fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the accident fund created in RCW 51.44.010 and fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the medical aid fund created in RCW 51.44.020, to the general fund of the state treasury.

(4) For bonds issued for the purposes of RCW 43.99H.020(18), on each date on which any interest or principal and interest payment is due, the board of regents of the University of Washington shall cause the amount computed in RCW 43.99H.040(4) to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury.

(5) For bonds issued for the purposes of RCW 43.99H.020(4), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer from property taxes in the state general fund levied for the support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99H.040(6). [2009 c 500 § 8; 2009 c 479 § 32; 1991 sp.s. c 31 § 15; 1990 1st ex.s. c 15 § 6; 1989 1st ex.s. c 14 § 6.]

Reviser's note: This section was amended by 2009 c 479 § 32 and by 2009 c 500 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

43.99H.070 East capitol campus construction account—Additional means of reimbursement. In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99H.020(15), the following revenues may be collected:

(1) The director of enterprise services may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of RCW 43.99H.020(15) for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of enterprise services shall deposit the payment in the capitol campus reserve account.

(2) The director of enterprise services may pledge a portion of the parking rental income collected by the department of enterprise services from parking space developed as a part of the facility constructed with bonds issued for the purposes of RCW 43.99H.020(15). The pledged portion of this income shall be deposited in the capitol campus reserve account. The unpledged portion of this income shall continue to be deposited in the state vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995. Beginning in fiscal year 1996, the director of enterprise services, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of RCW 43.99H.020(15).

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account. [2011 1st sp.s. c 43 § 256; 1995 c 215 § 6; 1989 1st ex.s. c 14 § 7.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal and interest on the bonds authorized in RCW 43.99H.010. RCW 43.99H.030 and 43.99H.040 shall not be deemed to provide an exclusive method for the payment. [1990 1st ex.s. c 15 § 3; 1989 1st ex.s. c 14 § 8.]

Additional notes found at www.leg.wa.gov

43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment. The bonds authorized in RCW 43.99H.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1989 1st ex.s. c 14 § 9.]

43.99H.100 Expiration of authority to issue bonds. If any bonds authorized in this chapter have not been issued by June 30, 2018, the authority of the state finance committee to issue such remaining unissued bonds expires June 30, 2018. [2018 c 3 § 303.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.99H.901 Effective dates—1989 1st ex.s. c 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989, except for section 18 of this act which shall take effect immediately [June 1, 1989]. [1989 1st ex.s. c 14 § 28.]

Chapter 43.99I RCW FINANCING FOR APPROPRIATIONS—1991-1993 BIENNIUM

Sections

43.99I.010	1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
43.99I.020	Conditions and limitations.
43.99I.030	Retirement of bonds.
43.99I.040	Reimbursement of general fund.
43.99I.060	Pledge and promise—Remedies.
43.99I.070	Additional means for payment of principal and interest.
43.99I.080	Legal investment.
43.99I.090	Dairy products commission—Bond conditions and limitations.
43.99I.105	Bond authorization expiration.

43.99I.010 1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred eighty-four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1991-1993 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1992 c 235 § 1; 1991 sp.s. c 31 § 1.]

43.991.020 Conditions and limitations. Bonds issued under RCW 43.991.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred seventy-one million sixty-five thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1991-93 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this section shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 43.83.300;

(2) Eight hundred seventy-one million dollars to the state building construction account created by RCW 43.83.020;

(3) Two million eight hundred thousand dollars to the enterprise services account;

(4) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury;

(5) Three million two hundred eighty-four thousand dollars to the state general fund; and

(6) Nine hundred thousand dollars to the state general fund.

These proceeds shall be used exclusively for the purposes specified in this section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation. [2015 1st sp.s. c 4 § 43; 2012 c 198 § 13; 1997 c 456 § 38; 1992 c 235 § 2; 1991 sp.s. c 31 § 2.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Additional notes found at www.leg.wa.gov

43.991.030 Retirement of bonds. (1)(a) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.991.020 (1) and (2) shall be payable from the debt-limit general fund bond retirement account.

(b) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.991.020(3) shall be payable from the nondebt-limit proprietary appropriated bond retirement account.

(c) Both principal of and interest on the bonds issued for the purposes specified in *RCW 43.991.020(4) shall be payable from the nondebt-limit general fund bond retirement account.

(d) Both principal of and interest on the bonds issued for the purposes specified in **RCW 43.991.020 (5) and (6) shall be payable from the nondebt-limit reimbursable bond retirement account.

(e) Both principal of and interest on the bonds issued for the purposes specified in **RCW 43.991.020(7) shall be pay-

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able from the nondebt-limit proprietary nonappropriated bond retirement account.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the appropriate account as set forth under subsection (1) of this section such amounts and at such times as are required by the bond proceedings. [1997 c 456 § 21; 1991 sp.s. c 31 § 3.]

Reviser's note: *(1) RCW 43.991.020 was amended by 2012 c 198 § 13, deleting subsection (4).

** (2) RCW 43.991.020 was amended by 2012 c 198 § 13, changing subsections (5), (6), and (7) to subsections (4), (5), and (6), respectively.

Additional notes found at www.leg.wa.gov

43.991.040 Reimbursement of general fund. (1) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of *RCW 43.991.020(4), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.991.030 for the bonds issued for the purposes of *RCW 43.991.020(4).

(2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of **RCW 43.991.020(5), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter 231, Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.991.030 for the bonds issued for the purposes of **RCW 43.991.020(6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of **RCW 43.991.020(6), the state treasurer shall transfer from the data processing revolving fund created in ***RCW 43.19.791 to the general fund of the state treasury the amount computed in RCW 43.991.030 for the bonds issued for the purposes of **RCW 43.991.020(6).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of **RCW 43.991.020(7), the Washington state dairy products commission shall cause the amount computed in RCW 43.991.030 for the bonds issued for the purposes of **RCW 43.991.020(7) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury.

(5) The higher education operating fee accounts for the University of Washington, Washington State University, and Central Washington University established by chapter 231, Laws of 1992 and repealed by chapter 18, Laws of 1993 sp. sess. are reestablished in the state treasury for purposes of

fulfilling debt service reimbursement transfers to the general fund required by bond resolutions and covenants for bonds issued for purposes of **RCW 43.99I.020(5).

(6) For bonds issued for purposes of **RCW 43.99I.020(5), on each date on which any interest or principal and interest payment is due, the board of regents or board of trustees of the University of Washington, Washington State University, or Central Washington University shall cause the amount as determined by the state treasurer to be paid out of the local operating fee account for deposit by the universities into the state treasury higher education operating fee accounts. The state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of **RCW 43.99I.020(6) to reimburse the general fund. [2011 1st sp.s. c 43 § 612; 1997 c 456 § 39; 1992 c 235 § 3; 1991 sp.s. c 31 § 4.]

Reviser's note: *(1) RCW 43.99I.020 was amended by 2012 c 198 § 13, deleting subsection (4).

***(2) RCW 43.99I.020 was amended by 2012 c 198 § 13, changing subsections (5), (6), and (7) to subsections (4), (5), and (6), respectively.

****(3) RCW 43.19.791 was repealed by 2015 3rd sp.s. c 1 § 506, effective January 1, 2016.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.99I.060 Pledge and promise—Remedies. Bonds issued under RCW 43.99I.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1991 sp.s. c 31 § 6.]

43.99I.070 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99I.010, and RCW 43.99I.030 and 43.99I.040 shall not be deemed to provide an exclusive method for the payment. [1991 sp.s. c 31 § 7.]

43.99I.080 Legal investment. The bonds authorized in RCW 43.99I.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1991 sp.s. c 31 § 8.]

43.99I.090 Dairy products commission—Bond conditions and limitations. The bonds authorized by *RCW 43.99I.020(7) shall be issued only after the director of financial management has (a) certified that, based on the future income from assessments levied pursuant to chapter 15.44 RCW and other revenues collected by the Washington state dairy products commission, an adequate balance will be

maintained in the commission's general operating fund to pay the interest or principal and interest payments due under **RCW 43.99I.040(3) for the life of the bonds; and (b) approved the facility to be acquired using the bond proceeds. [1997 c 456 § 40; 1992 c 235 § 5.]

Reviser's note: *(1) RCW 43.99I.020 was amended by 2012 c 198 § 13, changing subsection (7) to subsection (6).

***(2) The reference to RCW 43.99I.040(3) appears erroneous. RCW 43.99I.040(4) was apparently intended.

Additional notes found at www.leg.wa.gov

43.99I.105 Bond authorization expiration. If any bonds authorized in this chapter have not been issued by June 30, 2013, the authority of the state finance committee to issue such remaining unissued bonds shall expire June 30, 2013. [2011 1st sp.s. c 49 § 7006.]

Additional notes found at www.leg.wa.gov

Chapter 43.99J RCW FINANCING FOR APPROPRIATIONS—1993-1995 BIENNIUM

Sections

43.99J.010	1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.
43.99J.020	Conditions and limitations.
43.99J.030	Retirement of bonds—Pledge and promise—Remedies.
43.99J.040	Additional means for payment of principal and interest.
43.99J.050	Legal investment.
43.99J.060	Washington state fruit commission—Reimbursement of general fund.
43.99J.070	Washington state fruit commission—Bond conditions and limitations.

43.99J.010 1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1993-95 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred twenty-six million seven hundred thirty-seven thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1993 sp.s. c 12 § 1.]

43.99J.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99J.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred three million dollars to remain in the state building construction account created by RCW 43.83.020; and

(2) One million five hundred thousand dollars to the fruit commission facility account.

These proceeds shall be used exclusively for the purposes specified in this section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by

the office of financial management subject to legislative appropriation. [1993 sp.s. c 12 § 2.]

Reviser's note: The 1994 publication of this code section inadvertently omitted two lines of text. The full text of the law is reprinted here.

43.99J.030 Retirement of bonds—Pledge and promise—Remedies. (1)(a) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020(1).

(b) The nondebt-limit proprietary nonappropriated bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020(2).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account or nondebt-limit proprietary nonappropriated bond retirement account, as necessary, an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) Bonds issued under RCW 43.99J.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(4) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1997 c 456 § 22; 1993 sp.s. c 12 § 3.]

Additional notes found at www.leg.wa.gov

43.99J.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.010, and RCW 43.99J.030 shall not be deemed to provide an exclusive method for the payment. [1993 sp.s. c 12 § 7.]

43.99J.050 Legal investment. The bonds authorized in RCW 43.99J.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1993 sp.s. c 12 § 8.]

43.99J.060 Washington state fruit commission—Reimbursement of general fund. On each date on which any interest or principal and interest payment is due for the purposes of RCW 43.99J.020(2), the Washington state fruit commission shall cause the amount computed by the state finance committee in RCW 43.99J.030 for the purposes of RCW 43.99J.020(2) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury. [1993 sp.s. c 12 § 4.]

(2022 Ed.)

43.99J.070 Washington state fruit commission—Bond conditions and limitations. The bonds authorized in RCW 43.99J.020(2) may be issued only after the director of financial management has: (1) Certified that, based on the future income from assessments levied under this chapter and other revenues collected by the commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99J.060 for the life of the bonds; and (2) approved the plans for facility. [1993 sp.s. c 12 § 5.]

Chapter 43.99K RCW

FINANCING FOR APPROPRIATIONS—1995-1997 BIENNium

Sections

- 43.99K.010 1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.
- 43.99K.020 Conditions and limitations.
- 43.99K.030 Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies.
- 43.99K.040 Additional means for payment of principal and interest.
- 43.99K.050 Legal investment.

43.99K.010 1995-1997 Fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1995-97 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred sixty-seven million one hundred sixty thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1997 c 456 § 41; 1995 2nd sp.s. c 17 § 1.]

Additional notes found at www.leg.wa.gov

43.99K.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99K.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

- (1) Seven hundred eighty-five million four hundred thirty-eight thousand dollars to remain in the state building construction account created by RCW 43.83.020;
- (2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;
- (3) Twenty-one million one hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;
- (4) Two million nine hundred twelve thousand dollars to the public safety reimbursable bond account; and
- (5) Ten million dollars to the higher education construction account created by RCW 43.83.310.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by

the office of financial management subject to legislative appropriation. [2015 1st sp.s. c 4 § 44; 1997 c 456 § 42; 1995 2nd sp.s. c 17 § 2.]

Additional notes found at www.leg.wa.gov

43.99K.030 Retirement of bonds—Reimbursement of general fund—Pledge and promise—Remedies. (1)(a) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020 (1), (2), and (3).

(b) The debt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(4).

(c) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account, debt-limit reimbursable bond retirement account, nondebt-limit reimbursable bond retirement account, as necessary, an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(5), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99K.020(5).

(4) Bonds issued under this section and RCW 43.99K.010 and 43.99K.020 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(5) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2009 c 479 § 33; 2005 c 487 § 8; 1997 c 456 § 23; 1995 2nd sp.s. c 17 § 3.]

Additional notes found at www.leg.wa.gov

43.99K.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.010, and RCW 43.99K.030 shall not be deemed to provide an exclusive method for the payment. [1995 2nd sp.s. c 17 § 4.]

43.99K.050 Legal investment. The bonds authorized in RCW 43.99K.010 shall be a legal investment for all state

funds or funds under state control and for all funds of any other public body. [1995 2nd sp.s. c 17 § 5.]

Chapter 43.99L RCW

FINANCING FOR APPROPRIATIONS—1997-1999 BIENNIUM

Sections

- 43.99L.010 General obligation bonds for capital and operating appropriations acts.
- 43.99L.020 Conditions and limitations.
- 43.99L.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99L.040 Retirement of bonds—Reimbursement of general fund from debt-limit reimbursable bond retirement account.
- 43.99L.050 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99L.060 Pledge and promise—Remedies.
- 43.99L.070 Payment of principal and interest—Additional means for raising moneys authorized.
- 43.99L.080 Legal investment.

43.99L.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1997-99 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred eighty-nine million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1997 c 456 § 1.]

43.99L.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99L.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred fifteen million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) One million six hundred thousand dollars to the public safety reimbursable bond account; and

(3) Forty-four million three hundred thousand dollars to the higher education construction account created by RCW 43.83.310.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2015 1st sp.s. c 4 § 45; 1997 c 456 § 2.]

43.99L.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.020(1).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount

needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99L.020(1).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99L.020(1), the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [1997 c 456 § 3.]

43.99L.040 Retirement of bonds—Reimbursement of general fund from debt-limit reimbursable bond retirement account. (1) The debt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.020(2).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99L.020(2).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99L.020(2), the state treasurer shall transfer from the state general fund to the debt-limit reimbursable bond retirement account the amount computed in subsection (2) of this section for the bonds issued for the purpose of RCW 43.99L.020(2). [2009 c 479 § 34; 1997 c 456 § 4.]

Additional notes found at www.leg.wa.gov

43.99L.050 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.020(3).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99L.020(3).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99L.020(3), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the nondebt-limit reimbursable bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99L.020(3). [1997 c 456 § 5.]

43.99L.060 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99L.010 through 43.99L.050 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by

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mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1997 c 456 § 6.]

43.99L.070 Payment of principal and interest—Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99L.010, and RCW 43.99L.030 through 43.99L.050 shall not be deemed to provide an exclusive method for the payment. [1997 c 456 § 7.]

43.99L.080 Legal investment. The bonds authorized in RCW 43.99L.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1997 c 456 § 8.]

Chapter 43.99M RCW BOND RETIREMENT ACCOUNTS

Sections

43.99M.005	Findings.
43.99M.010	Debt-limit general fund bond retirement account.
43.99M.020	Debt-limit reimbursable bond retirement account.
43.99M.030	Nondebt-limit general fund bond retirement account.
43.99M.040	Nondebt-limit reimbursable bond retirement account.
43.99M.050	Nondebt-limit proprietary appropriated bond retirement account.
43.99M.060	Nondebt-limit proprietary nonappropriated bond retirement account.
43.99M.070	Nondebt-limit revenue bond retirement account.
43.99M.080	Transportation improvement board bond retirement account.
43.99M.901	Effective date—1997 c 456 §§ 9-43.

43.99M.005 Findings. (1) The legislature declares that it is in the best interest of the state and the owners and holders of the bonds issued by the state and its political subdivisions that the accounts used by the treasurer for debt service retirement are accurately designated and named in statute.

(2) It is the intent of the legislature in this chapter and sections 10 through 37, chapter 456, Laws of 1997 to create and change the names of funds and accounts to accomplish the declaration under subsection (1) of this section. The legislature does not intend to diminish in any way the current obligations of the state or its political subdivisions or diminish in any way the rights of bond owners and holders. [1997 c 456 § 9.]

43.99M.010 Debt-limit general fund bond retirement account. The debt-limit general fund bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 30.]

43.99M.020 Debt-limit reimbursable bond retirement account. The debt-limit reimbursable bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 31.]

43.99M.030 Nondebt-limit general fund bond retirement account. The nondebt-limit general fund bond retire-

ment account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 32.]

43.99M.040 Nondebt-limit reimbursable bond retirement account. The nondebt-limit reimbursable bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 33.]

43.99M.050 Nondebt-limit proprietary appropriated bond retirement account. The nondebt-limit proprietary appropriated bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 34.]

43.99M.060 Nondebt-limit proprietary nonappropriated bond retirement account. The nondebt-limit proprietary nonappropriated bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 35.]

43.99M.070 Nondebt-limit revenue bond retirement account. The nondebt-limit revenue bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 36.]

43.99M.080 Transportation improvement board bond retirement account. The transportation improvement board bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature. [1997 c 456 § 37.]

43.99M.901 Effective date—1997 c 456 §§ 9-43. Sections 9 through 43 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 20, 1997]. [1997 c 456 § 47.]

Chapter 43.99N RCW STADIUM AND EXHIBITION CENTER BOND ISSUE (REFERENDUM 48)

Sections

- 43.99N.010 Definitions.
- 43.99N.020 General obligation bonds—Certifications by public stadium authority—Obligations of team affiliate.
- 43.99N.030 Escrow agreement, account—Distributions.
- 43.99N.040 Stadium and exhibition center construction account.
- 43.99N.050 Payment of principal and interest from nondebt-limit reimbursable bond retirement account—Transfers of certified amounts—Bonds as general obligation, full faith and credit, promise to pay—Insufficiency in stadium and exhibition center account as obligation—Proceedings to require transfer and payment.

- 43.99N.060 Stadium and exhibition center account—Youth athletic facility account—Community outdoor athletic facility loans and grants.
- 43.99N.070 Sections null and void if certification not made by office of financial management—Conditions.
- 43.99N.080 Additional means for raising moneys authorized.
- 43.99N.090 Bonds as legal investment.
- 43.99N.100 Total public share—State contribution limited.
- 43.99N.120 Loans—Terms and conditions of repayment and interest.
- 43.99N.130 Bond authorization expiration.
- 43.99N.800 Referendum only measure for taxes for stadium and exhibition center—Limiting legislation upon failure to approve—1997 c 220.
- 43.99N.801 Legislation as opportunity for voter's decision—Not indication of legislators' personal vote on referendum proposal—1997 c 220.
- 43.99N.802 Contingency—Null and void—Team affiliate's agreement for reimbursement for election—1997 c 220.
- 43.99N.803 Referendum—Submittal—Explanatory statement—Voters' pamphlet—Voting procedures—Canvassing and certification—Reimbursement of counties for costs—No other elections on stadium and exhibition center—1997 c 220.

43.99N.010 Definitions. The definitions in RCW 36.102.010 apply to this chapter. [1997 c 220 § 209 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.020 General obligation bonds—Certifications by public stadium authority—Obligations of team affiliate. (1) For the purpose of providing funds to pay for operation of the public stadium authority created under RCW 36.102.020, to pay for the preconstruction, site acquisition, design, site preparation, construction, owning, leasing, and equipping of the stadium and exhibition center, and to reimburse the county or the public stadium authority for its direct or indirect expenditures or to repay other indebtedness incurred for these purposes, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred million dollars, or so much thereof as may be required, for these purposes and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine.

(2) Bonds shall not be issued under this section unless the public stadium authority has certified to the director of financial management that:

(a) A professional football team has made a binding and legally enforceable contractual commitment to play all of its regular season and playoff home games in the stadium and exhibition center, other than games scheduled elsewhere by the league, for a period of time not shorter than the term of the bonds issued or to be issued to finance the initial construction of the stadium and exhibition center;

(b) A team affiliate has entered into one or more binding and legally enforceable contractual commitments with a public stadium authority under RCW 36.102.050 that provide that:

- (i) The team affiliate assumes the risks of cost overruns;
- (ii) The team affiliate shall raise at least one hundred million dollars, less the amount, if any, raised by the public stadium authority under RCW 36.102.060(15). The total one hundred million dollars raised, which may include cash payments and in-kind contributions, but does not include any interest earned on the escrow account described in RCW 43.99N.030, shall be applied toward the reasonably necessary preconstruction, site acquisition, design, site preparation, construction, and equipping of the stadium and exhibi-

tion center, or to any associated public purpose separate from bond-financed expenses. No part of the payment may be made without the consent of the public stadium authority. In any event, all amounts to be raised by the team affiliate under (b)(ii) of this subsection shall be paid or expended before the completion of the construction of the stadium and exhibition center. To the extent possible, contributions shall be structured in a manner that would allow for the issuance of bonds to construct the stadium and exhibition center that are exempt from federal income taxes;

(iii) The team affiliate shall deposit at least ten million dollars into the *youth athletic facility grant account created in RCW 43.99N.060 upon execution of the lease and development agreements in RCW 36.102.060 (7) and (8);

(iv) At least ten percent of the seats in the stadium for home games of the professional football team shall be for sale at an affordable price. For the purposes of this subsection, "affordable price" means that the price is the average of the lowest ticket prices charged by all other national football league teams;

(v) One executive suite with a minimum of twenty seats must be made available, on a lottery basis, as a free upgrade, at home games of the professional football team, to purchasers of tickets that are not located in executive suites or club seat areas;

(vi) A nonparticipatory interest in the professional football team has been granted to the state beginning on the date on which bonds are issued under this section which only entitles the state to receive ten percent of the gross selling price of the interest in the team that is sold if a majority interest or more of the professional football team is sold within twenty-five years of the date on which bonds are issued under the [this] section. The ten percent shall apply to all preceding sales of interests in the team which comprise the majority interest sold. This provision shall apply only to the first sale of such a majority interest. The ten percent must be deposited in the permanent common school fund. If the debt is retired at the time of the sale, then the ten percent may only be used for costs associated with capital maintenance, capital improvements, renovations, reequipping, replacement, and operations of the stadium and exhibition center;

(vii) The team affiliate must provide reasonable office space to the public stadium authority without charge;

(viii) The team affiliate, in consultation with the public stadium authority, shall work with surrounding areas to mitigate the impact of the construction and operation of the stadium and exhibition center with a budget of at least ten million dollars dedicated to area mitigation. For purposes of this subsection, "mitigation" includes, but is not limited to, parking facilities and amenities, neighborhood beautification projects and landscaping, financial grants for neighborhood programs intended to mitigate adverse impacts caused by the construction and operation of the stadium and exhibition center, and mitigation measures identified in the environmental impact statement required for the stadium and exhibition center under chapter 43.21C RCW; and

(ix) Twenty percent of the net profit from the operation of the exhibition facility of the stadium and exhibition center shall be deposited into the permanent common school fund. Profits shall be verified by the public stadium authority.

[1997 c 220 § 210 (Referendum Bill No. 48, approved June 17, 1997).]

*Reviser's note: The "youth athletic facility grant account" was renamed the "youth athletic facility account" by 2000 c 137 § 1.

43.99N.030 Escrow agreement, account—Distributions. On or before August 1, 1997: (1) The state treasurer and a team affiliate or an entity that has an option to become a team affiliate shall enter into an escrow agreement creating an escrow account; and (2) the team affiliate or the entity that has an option to become a team affiliate shall deposit the sum of fifty million dollars into the escrow account as a credit against the obligation of the team affiliate in RCW 43.99N.020(2)(b)(ii).

The escrow agreement shall provide that the fifty million dollar deposit shall be invested by the state treasurer and shall earn interest. If the stadium and exhibition center project proceeds, then the interest on amounts in the escrow account shall be for the benefit of the state, and all amounts in the escrow account, including all principal and interest, shall be distributed to the stadium and exhibition center account. The escrow agreement shall provide for appropriate adjustments based on amounts previously and subsequently raised by the team affiliate under RCW 43.99N.020(2)(b)(ii) and amounts previously and subsequently raised by the public stadium authority under RCW 36.102.060(15). If the stadium and exhibition center project does not proceed, all principal and the interest in the escrow account shall be distributed to the team affiliate or the entity that has an option to become a team affiliate. [1997 c 220 § 211 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.040 Stadium and exhibition center construction account. The proceeds from the sale of the bonds authorized in RCW 43.99N.020 shall be deposited in the stadium and exhibition center construction account, hereby created in the custody of the state treasurer, and shall be used exclusively for the purposes specified in RCW 43.99N.020 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. At the direction of the office of financial management the state treasurer shall transfer moneys from the stadium and exhibition center construction account to the public stadium authority created in RCW 36.102.020 as required by the public stadium authority. [1997 c 220 § 212 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.050 Payment of principal and interest from nondebt-limit reimbursable bond retirement account—Transfers of certified amounts—Bonds as general obligation, full faith and credit, promise to pay—Insufficiency in stadium and exhibition center account as obligation—Proceedings to require transfer and payment. The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99N.020.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall transfer from the stadium and exhibition center account to the nondebt-limit reimbursable bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99N.020 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. If in any year the amount accumulated in the stadium and exhibition center account is insufficient for payment of the principal and interest on the bonds issued under RCW 43.99N.020, the amount of the insufficiency shall be a continuing obligation against the stadium and exhibition center account until paid.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1997 c 220 § 213 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.060 Stadium and exhibition center account—Youth athletic facility account—Community outdoor athletic facility loans and grants. (1) The stadium and exhibition center account is created in the custody of the state treasurer. All receipts from the taxes imposed under RCW 82.14.0494 and distributions under RCW 67.70.240(1)(d) shall be deposited into the account. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. An appropriation is not required for expenditures from this account.

(2) Until bonds are issued under RCW 43.99N.020, up to five million dollars per year beginning January 1, 1999, shall be used for the purposes of subsection (3)(b) of this section, all remaining moneys in the account shall be transferred to the public stadium authority, created under RCW 36.102.020, to be used for public stadium authority operations and development of the stadium and exhibition center.

(3) After bonds are issued under RCW 43.99N.020, all moneys in the stadium and exhibition center account shall be used exclusively for the following purposes in the following priority:

(a) On or before June 30th of each year, the office of financial management shall accumulate in the stadium and exhibition center account an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under RCW 43.99N.020;

(b) An additional reserve amount not in excess of the expected average annual principal and interest requirements of bonds issued under RCW 43.99N.020 shall be accumulated and maintained in the account, subject to withdrawal by the state treasurer at any time if necessary to meet the requirements of (a) of this subsection, and, following any with-

drawal, reaccumulated from the first tax revenues and other amounts deposited in the account after meeting the requirements of (a) of this subsection; and

(c) The balance, if any, shall be transferred to the youth athletic facility account under subsection (4) of this section.

Any revenues derived from the taxes authorized by RCW 36.38.010(5) and 36.38.040 or other amounts that if used as provided under (a) and (b) of this subsection would cause the loss of any tax exemption under federal law for interest on bonds issued under RCW 43.99N.020 shall be deposited in and used exclusively for the purposes of the youth athletic facility account and shall not be used, directly or indirectly, as a source of payment of principal of or interest on bonds issued under RCW 43.99N.020, or to replace or reimburse other funds used for that purpose.

(4) Any moneys in the stadium and exhibition center account not required or permitted to be used for the purposes described in subsection (3)(a) and (b) of this section shall be deposited in the youth athletic facility account hereby created in the state treasury. Expenditures from the account may be used only for purposes of grants or loans to cities, counties, and qualified nonprofit organizations for community outdoor athletic facilities. Only the director of the recreation and conservation office or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The athletic facility grants or loans may be used for acquiring, developing, equipping, maintaining, and improving community outdoor athletic facilities. Funds shall be divided equally between the development of new community outdoor athletic facilities, the improvement of existing community outdoor athletic facilities, and the maintenance of existing community outdoor athletic facilities. Cities, counties, and qualified nonprofit organizations must submit proposals for grants or loans from the account. To the extent that funds are available, cities, counties, and qualified nonprofit organizations must meet eligibility criteria as established by the director of the recreation and conservation office. The grants and loans shall be awarded on a competitive application process and the amount of the grant or loan shall be in proportion to the population of the city or county for where the community outdoor athletic facility is located. Grants or loans awarded in any one year need not be distributed in that year. In the 2009-2011 biennium, if there are not enough project applications submitted in a category within the account to meet the requirement of equal distribution of funds to each category, the director of the recreation and conservation office may distribute any remaining funds to other categories within the account. The director of the recreation and conservation office may expend up to one and one-half percent of the moneys deposited in the account created in this subsection for administrative purposes. During the 2021-2023 fiscal biennium, the legislature may appropriate moneys from the youth athletic facility account to support a task force to consider ways to improve equitable access to K-12 schools' fields and athletic facilities and local parks agency facilities with the goal of increasing physical activity for youth and families. A portion of the appropriation must be used to inventory K-12 school fields and athletic facilities and park agency facilities. [2021 c 334 § 976; 2009 c 497 § 6026; 2008 c 328 § 6017; 2007 c 241 §

11; 2006 c 371 § 227; 2000 c 137 § 1; 1997 c 220 § 214 (Referendum Bill No. 48, approved June 17, 1997).]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

43.99N.070 Sections null and void if certification not made by office of financial management—Conditions. Unless *the office of financial management certifies by December 31, 1997, that the following conditions have been met, sections 201 through 208, chapter 220, Laws of 1997 are null and void:

(1) The professional football team that will use the stadium and exhibition center is at least majority-owned and controlled by, directly or indirectly, one or more persons who are each residents of the state of Washington and who have been residents of the state of Washington continuously since at least January 1, 1993;

(2) The county in which the stadium and exhibition center is to be constructed has created a public stadium authority under this chapter to acquire property, construct, own, remodel, maintain, equip, reequip, repair, and operate a stadium and exhibition center;

(3) The county in which the stadium and exhibition center is to be constructed has enacted the taxes authorized in RCW 36.38.010(5) and 36.38.040; and

(4) The county in which the stadium and exhibition center is to be constructed pledges to maintain and continue the taxes authorized in RCW 36.38.010(5), 67.28.180, and 36.38.040 until the bonds authorized in RCW 43.99N.020 are fully redeemed, both principal and interest. [1997 c 220 § 215 (Referendum Bill No. 48, approved June 17, 1997).]

***Reviser's note:** The office of financial management certified on December 3, 1997, that the conditions in subsections (1) through (4) of this section had been met.

43.99N.080 Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99N.020, and RCW 43.99N.050 shall not be deemed to provide an exclusive method for the payment. [1997 c 220 § 216 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.090 Bonds as legal investment. The bonds authorized in RCW 43.99N.020 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1997 c 220 § 217 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.100 Total public share—State contribution limited. (1) The total public share of a stadium and exhibition center shall not exceed three hundred million dollars. For the purposes of this section, "total public share" means all state and local funds expended for preconstruction and construction costs of the stadium and exhibition center, including proceeds of any bonds issued for the purposes of the stadium and exhibition center, tax revenues, and interest earned on the

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escrow account described in RCW 43.99N.030 and not including expenditures for deferred sales taxes.

(2) Sections 201 through 207, chapter 220, Laws of 1997 and this chapter constitute the entire state contribution for a stadium and exhibition center. The state will not make any additional contributions based on revised cost or revenue estimates, cost overruns, unforeseen circumstances, or any other reason. [1997 c 220 § 218 (Referendum Bill No. 48, approved June 17, 1997).]

43.99N.120 Loans—Terms and conditions of repayment and interest. The recreation and conservation funding board, in consultation with the community outdoor athletic fields advisory council, shall establish the terms and conditions of repayment and interest, based on financial considerations for any loans made under this section. Loans made under this section shall be low or no interest. [2007 c 241 § 12; 2000 c 137 § 2.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

43.99N.130 Bond authorization expiration. If any bonds authorized in this chapter have not been issued by June 30, 2013, the authority of the state finance committee to issue such remaining unissued bonds shall expire June 30, 2013. [2011 1st sp.s. c 49 § 7007.]

Additional notes found at www.leg.wa.gov

43.99N.800 Referendum only measure for taxes for stadium and exhibition center—Limiting legislation upon failure to approve—1997 c 220. See RCW 36.102.800.

43.99N.801 Legislation as opportunity for voter's decision—Not indication of legislators' personal vote on referendum proposal—1997 c 220. See RCW 36.102.801.

43.99N.802 Contingency—Null and void—Team affiliate's agreement for reimbursement for election—1997 c 220. See RCW 36.102.802.

43.99N.803 Referendum—Submittal—Explanatory statement—Voters' pamphlet—Voting procedures—Canvassing and certification—Reimbursement of counties for costs—No other elections on stadium and exhibition center—1997 c 220. See RCW 36.102.803.

Chapter 43.99P RCW

FINANCING FOR APPROPRIATIONS—1999-2001 BIENNIUM

Sections

- 43.99P.010 General obligation bonds for capital and operating appropriations acts.
- 43.99P.020 Conditions and limitations.
- 43.99P.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99P.040 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99P.050 Pledge and promise—Remedies.
- 43.99P.060 Payment of principal and interest—Additional means for raising moneys authorized.
- 43.99P.070 Legal investment.
- 43.99P.080 Bond authorization expiration.
- 43.99P.901 Effective date—1999 c 380.

43.99P.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 1999-01 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred four million two hundred sixty-five thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1999 c 380 § 1.]

43.99P.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99P.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred fifty million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(4) One hundred thirty-six million eight hundred thirty-six thousand dollars to the higher education construction account created by RCW 43.83.310;

(5) Thirty-six million three hundred thousand dollars to the state higher education construction account created by RCW 43.83.300.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2015 1st sp.s. c 4 § 46; 1999 c 380 § 2.]

43.99P.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99P.020 (1), (2), and (3).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99P.020 (1), (2), and (3).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99P.020 (1), (2), and (3) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [1999 c 380 § 3.]

43.99P.040 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99P.020 (4) and (5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99P.020 (4) and (5).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99P.020(4), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the nondebt-limit reimbursement bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99P.020(4).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99P.020(5), the board of regents of Washington State University shall cause to be paid out of the Washington State University nonappropriated funds to the state treasurer for deposit into the nondebt-limit reimbursement bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99P.020(5). [1999 c 380 § 4.]

43.99P.050 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99P.010 through 43.99P.040 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1999 c 380 § 5.]

43.99P.060 Payment of principal and interest—Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99P.010, and RCW 43.99P.020 through 43.99P.040 shall not be deemed to provide an exclusive method for the payment. [1999 c 380 § 6.]

43.99P.070 Legal investment. The bonds authorized in RCW 43.99P.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1999 c 380 § 7.]

43.99P.080 Bond authorization expiration. If any bonds authorized in this chapter have not been issued by June 30, 2013, the authority of the state finance committee to issue such remaining unissued bonds shall expire June 30, 2013. [2011 1st sp.s. c 49 § 7008.]

Additional notes found at www.leg.wa.gov

43.99P.901 Effective date—1999 c 380. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 18, 1999]. [1999 c 380 § 12.]

**Chapter 43.99Q RCW
FINANCING FOR APPROPRIATIONS—2001-2003
BIENNIUM**

Sections

- 43.99Q.010 General obligation bonds for capital and operating appropriations acts.
- 43.99Q.020 Conditions and limitations.
- 43.99Q.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99Q.040 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99Q.050 Pledge and promise—Remedies.
- 43.99Q.060 Payment of principal and interest—Additional means for raising money authorized.
- 43.99Q.070 East plaza garage project—General obligation bonds.
- 43.99Q.080 East plaza garage project—Conditions and limitations.
- 43.99Q.090 East plaza garage project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99Q.100 East plaza garage project—Pledge and promise—Remedies.
- 43.99Q.110 East plaza garage project—Payment of principal and interest—Additional means for raising moneys authorized.
- 43.99Q.120 Legislative building rehabilitation project—Finding—Intent.
- 43.99Q.130 Legislative building rehabilitation project—General obligation bonds—Expiration.
- 43.99Q.140 Legislative building rehabilitation project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account.
- 43.99Q.150 Legislative building rehabilitation project—Pledge and promise—Remedies.
- 43.99Q.160 Legislative building rehabilitation project—Payment of principal and interest—Additional means for raising money authorized.
- 43.99Q.170 Legal investment.
- 43.99Q.180 Bond authorization expiration.
- 43.99Q.901 Effective date—2001 2nd sp.s. c 9.

43.99Q.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2001-2003 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred thirty-five million five hundred thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2001 2nd sp.s. c 9 § 1.]

43.99Q.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99Q.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Seven hundred seventy-four million two hundred thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(4) Sixty million dollars to the state taxable building construction account which is hereby established in the state treasury. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than fifty million dollars of the bonds authorized in RCW 43.99Q.010 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation;

(5) Twenty-nine million twenty-five thousand dollars to the higher education construction account created by RCW 43.83.310.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2015 1st sp.s. c 4 § 47; 2001 2nd sp.s. c 9 § 2.]

43.99Q.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.020 (1), (2), (3), and (4).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Q.020 (1), (2), (3), and (4).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Q.020 (1), (2), (3), and (4) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2001 2nd sp.s. c 9 § 3.]

43.99Q.040 Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.020(5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retire-

ment and interest requirements on the bonds authorized in RCW 43.99Q.020(5).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Q.020(5), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the nondebt-limit reimbursement bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99Q.020(5). [2001 2nd sp.s. c 9 § 4.]

43.99Q.050 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Q.010 through 43.99Q.040 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2001 2nd sp.s. c 9 § 5.]

43.99Q.060 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.010, and RCW 43.99Q.020 through 43.99Q.040 shall not be deemed to provide an exclusive method for the payment. [2001 2nd sp.s. c 9 § 6.]

43.99Q.070 East plaza garage project—General obligation bonds. For the purpose of providing funds for the planning, design, construction, and other necessary costs for replacing the waterproof membrane over the east plaza garage and revising related landscaping, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixteen million dollars, or as much thereof as may be required, to finance this project and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2001 2nd sp.s. c 9 § 7.]

43.99Q.080 East plaza garage project—Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99Q.070 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows: Fifteen million five hundred twenty thousand dollars to the state vehicle parking account created by RCW 43.01.225.

These proceeds shall be used exclusively for the purposes specified in RCW 43.99Q.070 and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2001 2nd sp.s. c 9 § 8.]

43.99Q.090 East plaza garage project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.070.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Q.070.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Q.080, the state treasurer shall transfer from the state vehicle parking account for deposit into the nondebt-limit reimbursable bond retirement account, the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99Q.070. [2001 2nd sp.s. c 9 § 9.]

43.99Q.100 East plaza garage project—Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Q.070 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2001 2nd sp.s. c 9 § 10.]

43.99Q.110 East plaza garage project—Payment of principal and interest—Additional means for raising moneys authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99Q.070, and RCW 43.99Q.080 and 43.99Q.090 shall not be deemed to provide an exclusive method for the payment. [2001 2nd sp.s. c 9 § 11.]

43.99Q.120 Legislative building rehabilitation project—Finding—Intent. The legislature finds that it is necessary to complete the rehabilitation of the state legislative building, to extend the useful life of the building, and provide for the permanent relocation of offices displaced by the rehabilitation and create new space for public uses.

Furthermore, it is the intent of the legislature to fund the majority of the rehabilitation and construction using bonds repaid by the capitol building construction account, as provided for in the enabling act and dedicated by the federal government for the sole purpose of establishing a state capitol, to fund the cash elements of the project using capital project surcharge revenues in the Thurston county capital facilities account, and to support the establishment of a private foundation to engage the public in the preservation of the state legislative building and raise private funds for restoration and educational efforts. [2009 c 500 § 9; 2001 2nd sp.s. c 9 § 13.]

Additional notes found at www.leg.wa.gov

43.99Q.130 Legislative building rehabilitation project—General obligation bonds—Expiration. (1) For the purpose of providing funds for the planning, design, construction, and other necessary costs for the rehabilitation of the state legislative building, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighty-two million five hundred ten thousand dollars or as much thereof as may be required to finance the rehabilitation and improvements to the legislative building and all costs incidental thereto. The approved rehabilitation plan includes costs associated with earthquake repairs and future earthquake mitigation and allows for associated relocation costs and the acquisition of appropriate relocation space. Bonds authorized in this section may be sold at a price the state finance committee determines. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The proceeds of the sale of the bonds issued for the purposes of this section shall be deposited in the state building construction account. These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

(2) If any bonds authorized in this chapter have not been issued by June 30, 2013, the authority of the state finance committee to issue such remaining unissued bonds shall expire June 30, 2013. [2012 c 198 § 14; 2011 1st sp.s. c 49 § 7009; 2009 c 500 § 10; 2001 2nd sp.s. c 9 § 14.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Additional notes found at www.leg.wa.gov

43.99Q.140 Legislative building rehabilitation project—Retirement of bonds—Reimbursement of general fund from nondebt-limit reimbursable bond retirement account. (1) The nondebt-limit reimbursable bond retirement account must be used for the payment of the principal and interest on the bonds authorized in RCW 43.99Q.130.

(2)(a) The state finance committee must, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Q.130.

(b) On or before the date on which any interest or principal and interest is due, the state treasurer shall transfer from the capitol building construction account for deposit into the nondebt-limit reimbursable bond retirement account, the amount computed in (a) of this subsection for bonds issued for the purposes of RCW 43.99Q.130.

(3) If the capitol building construction account has insufficient revenues to pay the principal and interest computed in subsection (2)(a) of this section, then the debt-limit reimbursable bond retirement account shall be used for the payment of the principal and interest on the bonds authorized in RCW 43.99Q.130 from any additional means provided by the legislature. [2001 2nd sp.s. c 9 § 15.]

43.99Q.150 Legislative building rehabilitation project—Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Q.130 shall state that they are a general

obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal and interest, and shall contain an unconditional promise to pay the principal and interest as it becomes due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2001 2nd sp.s. c 9 § 16.]

43.99Q.160 Legislative building rehabilitation project—Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal and interest on the bonds authorized in RCW 43.99Q.130, and RCW 43.99Q.140 and 43.99Q.150 shall not be deemed to provide an exclusive method for their payment. [2001 2nd sp.s. c 9 § 17.]

43.99Q.170 Legal investment. The bonds authorized in RCW 43.99Q.010, 43.99Q.070, and 43.99Q.130 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2001 2nd sp.s. c 9 § 12.]

43.99Q.180 Bond authorization expiration. If any bonds authorized pursuant to RCW 43.99Q.020(5) have not been issued by June 30, 2013, the authority of the state finance committee to issue such remaining unissued bonds shall expire June 30, 2013. [2011 1st sp.s. c 49 § 7010.]

Additional notes found at www.leg.wa.gov

43.99Q.901 Effective date—2001 2nd sp.s. c 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 26, 2001]. [2001 2nd sp.s. c 9 § 21.]

Chapter 43.99R RCW

FINANCING FOR APPROPRIATIONS—2003-2005 BIENNium

Sections

43.99R.010	General obligation bonds for capital and operating appropriations act.
43.99R.020	Conditions and limitations.
43.99R.030	Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
43.99R.040	Pledge and promise—Remedies.
43.99R.050	Payment of principal and interest—Additional means for raising money authorized.
43.99R.901	Effective date—2003 1st sp.s. c 3.

43.99R.010 General obligation bonds for capital and operating appropriations act. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2003-2005 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred twelve million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this sec-

tion may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2003 1st sp.s. c 3 § 1.]

43.99R.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99R.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) One billion fifty-one million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-two million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(4) Eighty million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (4) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2003 1st sp.s. c 3 § 2.]

43.99R.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99R.020 (1), (2), (3), and (4).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99R.020 (1), (2), (3), and (4).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99R.020 (1), (2), (3), and (4) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2003 1st sp.s. c 3 § 3.]

43.99R.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99R.010 through 43.99R.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2003 1st sp.s. c 3 § 4.]

43.99R.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99R.010, and RCW 43.99R.020 and 43.99R.030 shall not be deemed to provide an exclusive method for the payment. [2003 1st sp.s. c 3 § 5.]

43.99R.901 Effective date—2003 1st sp.s. c 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 20, 2003]. [2003 1st sp.s. c 3 § 8.]

Chapter 43.99S RCW FINANCING FOR APPROPRIATIONS—2005-2007 BIENNIUM

Sections

- 43.99S.010 General obligation bonds for capital and operating appropriations acts.
- 43.99S.020 Conditions and limitations.
- 43.99S.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99S.040 Pledge and promise—Remedies.
- 43.99S.050 Payment of principal and interest—Additional means for raising money authorized.
- 43.99S.901 Effective date—2005 c 487.

43.99S.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriation acts for the 2003-2005 and 2005-2007 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion four hundred thirty-four million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2005 c 487 § 1.]

43.99S.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99S.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) One billion two hundred thirty-four million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) Twenty-five million dollars to the outdoor recreation account created by RCW 79A.25.060;

(3) Twenty-five million dollars to the habitat conservation account created by RCW 79A.15.020;

(4) One hundred eight million two hundred thousand dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (4) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of non-taxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2005 c 487 § 2.]

43.99S.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99S.020 (1), (2), (3), and (4).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99S.020 (1), (2), (3), and (4).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99S.020 (1), (2), (3), and (4) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2005 c 487 § 3.]

43.99S.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99S.010 through 43.99S.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2005 c 487 § 4.]

(2022 Ed.)

43.99S.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99S.010, and RCW 43.99S.020 and 43.99S.030 shall not be deemed to provide an exclusive method for the payment. [2005 c 487 § 5.]

43.99S.901 Effective date—2005 c 487. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 16, 2005]. [2005 c 487 § 12.]

Chapter 43.99T RCW

FINANCING FOR APPROPRIATIONS—2007-2009 BIENNIUM

Sections

- 43.99T.010 General obligation bonds for capital and operating appropriations acts.
- 43.99T.020 Conditions and limitations.
- 43.99T.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99T.040 Pledge and promise—Remedies.
- 43.99T.050 Payment of principal and interest—Additional means for raising money authorized.
- 43.99T.901 Effective date—2007 c 521.

43.99T.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2005-2007 and 2007-2009 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion nine hundred seventy-two million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2007 c 521 § 1.]

43.99T.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99T.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

- (1) One billion six hundred ninety-three million dollars to remain in the state building construction account created by RCW 43.83.020;
- (2) Thirty-six million dollars to the outdoor recreation account created by RCW 79A.25.060;
- (3) Thirty-six million dollars to the habitat conservation account created by RCW 79A.15.020;
- (4) Nineteen million dollars to the riparian protection account created by RCW 79A.15.120;
- (5) Nine million dollars to the farmlands preservation account created by *RCW 79A.15.130;
- (6) One hundred forty million dollars to the state taxable building construction account. All receipts from taxable bond

issues are to be deposited into the account. If the state finance committee deems it necessary to issue more than the amount specified in this subsection (6) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2007 c 521 § 2.]

***Reviser's note:** RCW 79A.15.130 was amended by 2016 c 149 § 10, renaming the "farmlands preservation account" to the "farm and forest account."

43.99T.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99T.020 (1), (2), (3), (4), (5), and (6).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99T.020 (1), (2), (3), (4), (5), and (6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99T.020 (1), (2), (3), (4), (5), and (6) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2007 c 521 § 3.]

43.99T.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99T.010 through 43.99T.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2007 c 521 § 4.]

43.99T.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99T.010, and RCW 43.99T.020 and

43.99T.030 shall not be deemed to provide an exclusive method for the payment. [2007 c 521 § 5.]

43.99T.901 Effective date—2007 c 521. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2007]. [2007 c 521 § 8.]

Chapter 43.99U RCW

FLOOD HAZARD MITIGATION—BOND ISSUE

Sections

43.99U.010	Flood hazard mitigation—Bond issue.
43.99U.020	Conditions and limitations.
43.99U.030	Retirement of bonds.
43.99U.040	Pledge and promise—Remedies.
43.99U.050	Payment of principal and interest—Additional means for raising money authorized.
43.99U.060	Bonds legal investment for public funds.
43.99U.902	Effective date—2008 c 179.

43.99U.010 Flood hazard mitigation—Bond issue. For the purpose of providing state funds for federally matched flood hazard mitigation and other projects throughout the Chehalis river basin, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2008 c 179 § 101.]

43.99U.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99U.010 shall be deposited in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. These proceeds shall be used exclusively for the purposes specified in RCW 43.99U.010 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management subject to legislative appropriation. [2008 c 179 § 102.]

43.99U.030 Retirement of bonds. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99U.010.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any

interest or principal and interest payment is due the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2008 c 179 § 103.]

43.99U.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99U.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2008 c 179 § 104.]

43.99U.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99U.010, and RCW 43.99U.030 shall not be deemed to provide an exclusive method for the payment. [2008 c 179 § 105.]

43.99U.060 Bonds legal investment for public funds. The bonds authorized in RCW 43.99U.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2008 c 179 § 106.]

43.99U.902 Effective date—2008 c 179. See RCW 28A.527.902.

Chapter 43.99V RCW

SCHOOL CONSTRUCTION ASSISTANCE GRANT PROGRAM

Sections

43.99V.010	School construction assistance grant program—Bond issue.
43.99V.020	Conditions and limitations.
43.99V.030	Retirement of bonds.
43.99V.040	Pledge and promise—Remedies.
43.99V.050	Payment of principal and interest—Additional means for raising money authorized.
43.99V.900	Effective date—2009 c 6.
43.99V.901	Effective date—2009 c 6.

43.99V.010 School construction assistance grant program—Bond issue. For the purpose of providing funds to finance the school construction assistance grant program described and authorized by the legislature in the capital appropriations acts for the 2007-2009 and 2009-2011 fiscal biennia, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred thirty-three million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior leg-

islative appropriation of the net proceeds of the sale of the bonds. [2009 c 6 § 1.]

43.99V.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99V.010 shall be deposited in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2009 c 6 § 2.]

43.99V.030 Retirement of bonds. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in chapter 6, Laws of 2009.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99V.010.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of chapter 6, Laws of 2009, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2009 c 6 § 3.]

43.99V.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99V.010 through 43.99V.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2009 c 6 § 4.]

43.99V.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99V.010, and RCW 43.99V.020 and

43.99V.030 shall not be deemed to provide an exclusive method for the payment. [2009 c 6 § 5.]

43.99V.900 Effective date—2009 c 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 18, 2009]. [2009 c 6 § 8.]

43.99V.901 Effective date—2009 c 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 18, 2009]. [2009 c 6 § 10.]

Chapter 43.99W RCW

FINANCING FOR APPROPRIATIONS—2007-2009 AND 2009-2011 BIENNIA

Sections

- 43.99W.010 General obligation bonds for capital and operating appropriations acts.
- 43.99W.020 Conditions and limitations.
- 43.99W.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99W.040 Pledge and promise—Remedies.
- 43.99W.050 Payment of principal and interest—Additional means for raising money authorized.
- 43.99W.900 Effective date—2009 c 498.

43.99W.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2007-2009 and 2009-2011 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two billion two hundred nineteen million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2009 c 498 § 1.]

43.99W.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99W.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

- (1) One billion nine hundred forty-seven million dollars to remain in the state building construction account created by RCW 43.83.020;
- (2) Twenty-seven million dollars to the outdoor recreation account created by RCW 79A.25.060;
- (3) Twenty-seven million dollars to the habitat conservation account created by RCW 79A.15.020;
- (4) Six million dollars to the riparian protection account created by RCW 79A.15.120;
- (5) Ten million dollars to the farmlands preservation account created by *RCW 79A.15.130;

(6) One hundred fifty-nine million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (6) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2009 c 498 § 2.]

***Reviser's note:** RCW 79A.15.130 was amended by 2016 c 149 § 10, renaming the "farmlands preservation account" to the "farm and forest account."

43.99W.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99W.020 (1), (2), (3), (4), (5), and (6).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99W.020 (1), (2), (3), (4), (5), and (6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99W.020 (1), (2), (3), (4), (5), and (6) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2009 c 498 § 3.]

43.99W.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99W.010 through 43.99W.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2009 c 498 § 4.]

43.99W.050 Payment of principal and interest—Additional means for raising money authorized. The leg-

islature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99W.010, and RCW 43.99W.020 and 43.99W.030 shall not be deemed to provide an exclusive method for the payment. [2009 c 498 § 5.]

43.99W.900 Effective date—2009 c 498. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 2009]. [2009 c 498 § 21.]

**Chapter 43.99X RCW
FINANCING FOR APPROPRIATIONS—2011-2013
BIENNIUM**

Sections

- 43.99X.010 General obligation bonds for capital and operating appropriations acts.
- 43.99X.020 Conditions and limitations.
- 43.99X.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99X.040 Pledge and promise—Remedies.
- 43.99X.050 Payment of principal and interest—Additional means for raising money.
- 43.99X.100 Short title—2012 2nd sp.s. c 1.
- 43.99X.110 General obligation bonds for capital and operating appropriations acts.
- 43.99X.120 Conditions and limitations.
- 43.99X.130 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99X.140 Pledge and promise—Remedies.
- 43.99X.150 Payment of principal and interest—Additional means for raising money authorized.
- 43.99X.160 Effective date—2012 2nd sp.s. c 1.

43.99X.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2009-2011 and 2011-2013 fiscal bienniums, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion one hundred twenty-two million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2011 1st sp.s. c 49 § 7001.]

Additional notes found at www.leg.wa.gov

43.99X.020 Conditions and limitations. (1) The proceeds from the sale of the bonds authorized in RCW 43.99X.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

- (a) One billion seven million dollars to remain in the state building construction account created by RCW 43.83.020;
- (b) Twenty million two hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;
- (c) Twenty million two hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(2022 Ed.)

(d) Eight hundred thousand dollars to the riparian protection account created by RCW 79A.15.120;

(e) Eight hundred thousand dollars to the farmlands preservation account created by *RCW 79A.15.130;

(f) Fifty-one million dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (1)(f) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (1)(f) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection (1)(f). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2011 1st sp.s. c 49 § 7002.]

**Reviser's note:* RCW 79A.15.130 was amended by 2016 c 149 § 10, renaming the "farmlands preservation account" to the "farm and forest account."

Additional notes found at www.leg.wa.gov

43.99X.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99X.020(1) (a) through (f).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99X.020(1) (a) through (f).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99X.020(1) (a) through (f), the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2011 1st sp.s. c 49 § 7003.]

Additional notes found at www.leg.wa.gov

43.99X.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99X.010 through 43.99X.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2011 1st sp.s. c 49 § 7004.]

Additional notes found at www.leg.wa.gov

43.99X.050 Payment of principal and interest—Additional means for raising money. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99X.010, and RCW 43.99X.020 and 43.99X.030 shall not be deemed to provide an exclusive method for the payment. [2011 1st sp.s. c 49 § 7005.]

Additional notes found at www.leg.wa.gov

43.99X.100 Short title—2012 2nd sp.s. c 1. This act shall be known as the 2012 jobs now act. [2012 2nd sp.s. c 1 § 101.]

43.99X.110 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2011-2013 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five hundred five million four hundred sixty-six thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2012 2nd sp.s. c 1 § 201.]

Reviser's note: 2012 2nd sp.s. c 1 directed that sections 201 through 205 constitute a new chapter in Title 43 RCW. These sections have been added to chapter 43.99X RCW, which relates to financing appropriations for the 2011-2013 biennium.

43.99X.120 Conditions and limitations. (1) The proceeds from the sale of the bonds authorized in RCW 43.99X.110 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) Four hundred eighty million forty-five thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(b) Twenty million four hundred sixteen thousand dollars to the state taxable building construction account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection [(1)](b) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertain-

ing to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection [(1)](b) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection [(1)](b). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2012 2nd sp.s. c 1 § 202.]

43.99X.130 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99X.120(1).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99X.120(1).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99X.120(1), the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2012 2nd sp.s. c 1 § 203.]

43.99X.140 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99X.110 through 43.99X.130 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2012 2nd sp.s. c 1 § 204.]

43.99X.150 Payment of principal and interest—Additional means for raising money authorized. The leg-

islature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99X.110, and RCW 43.99X.120 and 43.99X.130 shall not be deemed to provide an exclusive method for the payment. [2012 2nd sp.s. c 1 § 205.]

43.99X.160 Effective date—2012 2nd sp.s. c 1. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 23, 2012]. [2012 2nd sp.s. c 1 § 708.]

Chapter 43.99Y RCW
FINANCING FOR APPROPRIATIONS—2011-2013
AND 2013-2015 BIENNIA

Sections

- 43.99Y.010 General obligation bonds for capital and operating appropriations acts.
- 43.99Y.020 Conditions and limitations.
- 43.99Y.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.99Y.040 Pledge and promise—Remedies.
- 43.99Y.050 Payment of principal and interest—Additional means for raising money authorized.
- 43.99Y.900 Effective date—2013 2nd sp.s. c 20.

43.99Y.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 2011-2013 and 2013-2015 fiscal biennia, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two billion thirty-six million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2013 2nd sp.s. c 20 § 1.]

43.99Y.020 Conditions and limitations. (1) The proceeds from the sale of bonds authorized in RCW 43.99Y.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) One billion six hundred seventy million six hundred eighty-five thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(b) Twenty-five million five hundred thousand dollars to the outdoor recreation account created by RCW 79A.25.060;

(c) Twenty-five million five hundred thousand dollars to the habitat conservation account created by RCW 79A.15.020;

(d) Eight million five hundred thousand dollars to the riparian protection account created by RCW 79A.15.120;

(e) Five million five hundred thousand dollars to the farmlands preservation account created by *RCW 79A.15.130;

(f) Two hundred seventy-nine million five hundred thousand dollars to the state taxable building construction

account. All receipts from taxable bond issues are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (1)(f) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (1)(f) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection (1)(f). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2013 2nd sp.s. c 20 § 2.]

**Reviser's note:* RCW 79A.15.130 was amended by 2016 c 149 § 10, renaming the "farmlands preservation account" to the "farm and forest account."

43.99Y.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Y.020(1) (a) through (f).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Y.020(1) (a) through (f).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Y.020(1) (a) through (f) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2013 2nd sp.s. c 20 § 3.]

43.99Y.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Y.010 through 43.99Y.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2013 2nd sp.s. c 20 § 4.]

43.99Y.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99Y.010, and RCW 43.99Y.020 and 43.99Y.030 shall not be deemed to provide an exclusive method for the payment. [2013 2nd sp.s. c 20 § 5.]

43.99Y.900 Effective date—2013 2nd sp.s. c 20. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 1, 2013]. [2013 2nd sp.s. c 20 § 9.]

Chapter 43.99Z RCW FINANCING FOR APPROPRIATIONS—2015-2017 BIENNIUM

Sections

- 43.99Z.010 General obligation bonds for capital and operating appropriations acts.
 43.99Z.020 Conditions and limitations.
 43.99Z.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
 43.99Z.040 Pledge and promise—Remedies.
 43.99Z.050 Payment of principal and interest—Additional means for raising money authorized.
 43.99Z.900 Effective date—2015 3rd sp.s. c 37.

43.99Z.010 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the omnibus capital and operating appropriations acts for the 2015-2017 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two billion three hundred thirty-two million four hundred fifty-six thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2015 3rd sp.s. c 37 § 1.]

43.99Z.020 Conditions and limitations. (1) The proceeds from the sale of bonds authorized in RCW 43.99Z.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) Two billion one hundred eighty-five million five hundred sixty-two thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(b) One hundred twenty-three million eight hundred thousand dollars to the state taxable building construction account. All receipts from taxable bonds issued are to be deposited into the account. If the state finance committee

deems it necessary or advantageous to issue more than the amount specified in this subsection (1)(b) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (1)(b) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection (1)(b). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

(c) The treasurer shall transfer bond proceeds deposited in the state building construction account into the outdoor recreation account created by RCW 79A.25.060, the habitat conservation account created by RCW 79A.15.020, the riparian protection account created by RCW 79A.15.120, and the farmlands preservation account created by *RCW 79A.15.130 at various times and in various amounts necessary to support authorized expenditures from those accounts.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2015 3rd sp.s. c 37 § 2.]

**Reviser's note:* RCW 79A.15.130 was amended by 2016 c 149 § 10, renaming the "farmlands preservation account" to the "farm and forest account."

43.99Z.030 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99Z.020(1) (a) through (c).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.99Z.020(1) (a) through (c).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99Z.020(1) (a) through (c) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2015 3rd sp.s. c 37 § 3.]

43.99Z.040 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.99Z.010 through 43.99Z.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2015 3rd sp.s. c 37 § 4.]

43.99Z.050 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99Z.010, and RCW 43.99Z.020 and 43.99Z.030 shall not be deemed to provide an exclusive method for the payment. [2015 3rd sp.s. c 37 § 5.]

43.99Z.900 Effective date—2015 3rd sp.s. c 37. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 10, 2015]. [2015 3rd sp.s. c 37 § 8.]

**Chapter 43.100A RCW
GENERAL OBLIGATION BOND ISSUES**

Sections

FINANCING FOR APPROPRIATIONS—
2017-2019 BIENNIUM

- 43.100A.300 General obligation bonds for capital and operating appropriations acts.
- 43.100A.301 Conditions and limitations.
- 43.100A.302 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.
- 43.100A.303 Pledge and promise—Remedies.
- 43.100A.304 Payment of principal and interest—Additional means for raising money authorized.

WATERSHED AND FISHERIES
RESTORATION AND ENHANCEMENT

- 43.100A.305 General obligation bonds for watershed and fisheries restoration and enhancement.
- 43.100A.306 Bond issuance—Intent.
- 43.100A.307 Conditions and limitations.
- 43.100A.308 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account—Pledge and promise—Remedies.
- 43.100A.309 Payment of principal and interest—Additional means for raising money authorized.
- 43.100A.310 Legal investment.

FINANCING FOR APPROPRIATIONS—
2017-2019 AND 2019-2021 BIENNIA

- 43.100A.311 Issuance and sale.
- 43.100A.312 Proceeds—Deposits and transfers.
- 43.100A.313 Payment of principal and interest—Retirement.
- 43.100A.314 Pledge and promise—Remedies.
- 43.100A.315 Additional means for raising money authorized.

FINANCING FOR APPROPRIATIONS—
2019-2021 AND 2021-2023 BIENNIA

- 43.100A.316 General obligation bonds for capital and operating appropriations acts.
- 43.100A.317 Conditions and limitations.
- 43.100A.318 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account.

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- 43.100A.319 Pledge and promise—Remedies.
- 43.100A.320 Payment of principal and interest—Additional means for raising money authorized.

FINANCING FOR APPROPRIATIONS—
2017-2019 BIENNIUM

43.100A.300 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the omnibus capital and operating appropriations acts for the 2017-2019 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two billion nine hundred thirty million two hundred thirty thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2018 c 3 § 101.]

Effective date—2018 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [January 19, 2018]." [2018 c 3 § 307.]

43.100A.301 Conditions and limitations. (1) The proceeds from the sale of bonds authorized in RCW 43.100A.300 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) Two billion seven hundred six million one hundred thirty-one thousand dollars to remain in the state building construction account created by RCW 43.83.020.

(b) Two hundred twenty-four million ninety-nine thousand dollars to the state taxable building construction account. All receipts from taxable bonds issued are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (1)(b) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (1)(b) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection (1)(b). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

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(c) The treasurer shall transfer bond proceeds deposited in the state building construction account into the outdoor recreation account created by RCW 79A.25.060, the habitat conservation account created by RCW 79A.15.020, the farm and forest account created by RCW 79A.15.130, and the early learning facilities development account, at various times and in various amounts necessary to support authorized expenditures from those accounts.

(d) The treasurer shall transfer bond proceeds deposited in the state taxable building construction account into the early learning facilities revolving account, at various times and in various amounts necessary to support authorized expenditures from that account.

(2) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2018 c 3 § 102.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.302 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.300.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.100A.300.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.100A.301(1) (a) through (d) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2018 c 3 § 103.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.303 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.100A.300 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2018 c 3 § 104.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.304 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.300, and RCW 43.100A.301

and 43.100A.302 shall not be deemed to provide an exclusive method for the payment. [2018 c 3 § 105.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

WATERSHED AND FISHERIES RESTORATION AND ENHANCEMENT

43.100A.305 General obligation bonds for watershed and fisheries restoration and enhancement. For the purpose of providing funds for the watershed and fisheries restoration and enhancement program, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. [2018 c 3 § 201.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.306 Bond issuance—Intent. It is the intent of the legislature that the proceeds of the new bonds authorized in RCW 43.100A.305 will be dispersed [disbursed] in phases of no more than twenty million dollars per year over fifteen years, beginning with the 2017-2019 biennium. This is not intended to limit the state's ability to disperse [disburse] bond proceeds if the full amount authorized in RCW 43.100A.305 has not been dispersed [disbursed] after fifteen years. The authorization to issue bonds contained in RCW 43.100A.305 does not expire until the full authorization has been issued and dispersed [disbursed]. [2018 c 3 § 202.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.307 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.100A.305 must be deposited in the watershed restoration and enhancement bond account. If the state finance committee deems it necessary to issue the bonds authorized in RCW 43.100A.305 as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds must be deposited into the watershed restoration and enhancement taxable bond account. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the watershed restoration and enhancement taxable bond account is necessary. The proceeds shall be used exclusively for the purposes specified in RCW 43.100A.305 and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management. [2018 c 3 § 203.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.308 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account—Pledge and promise—Remedies. The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.305. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest require-

ments. On each date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. Bonds issued under RCW 43.100A.305 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2018 c 3 § 204.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.309 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.305, and RCW 43.100A.308 shall not be deemed to provide an exclusive method for the payment. [2018 c 3 § 205.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

43.100A.310 Legal investment. The bonds authorized in RCW 43.100A.305 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [2018 c 3 § 206.]

Effective date—2018 c 3: See note following RCW 43.100A.300.

FINANCING FOR APPROPRIATIONS— 2017-2019 AND 2019-2021 BIENNIA

43.100A.311 Issuance and sale. For the purpose of providing funds to finance the projects described and authorized by the legislature in the omnibus capital and operating appropriations acts for the 2017-2019 and 2019-2021 fiscal biennia, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three billion two hundred million nine hundred twenty-six thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2019 c 414 § 1.]

Effective date—2019 c 414: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 21, 2019]." [2019 c 414 § 8.]

43.100A.312 Proceeds—Deposits and transfers. (1) The proceeds from the sale of bonds authorized in RCW 43.100A.311 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) Three billion twenty-four million two hundred ninety-two thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(b) One hundred seventy-six million six hundred thirty-four thousand dollars to the state taxable building construction account. All receipts from taxable bonds issued are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (1)(b) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (1)(b) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection (1)(b). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

(2)(a) The treasurer shall transfer bond proceeds deposited in the state building construction account into the outdoor recreation account created by RCW 79A.25.060, the habitat conservation account created by RCW 79A.15.020, the farm and forest account created by RCW 79A.15.130, and the early learning facilities development account created by RCW 43.31.569, at various times and in various amounts necessary to support authorized expenditures from those accounts.

(b) The treasurer shall transfer bond proceeds deposited in the state taxable building construction account into the early learning facilities revolving account created by RCW 43.31.569, at various times and in various amounts necessary to support authorized expenditures from that account.

(3) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2019 c 414 § 2.]

Effective date—2019 c 414: See note following RCW 43.100A.311.

43.100A.313 Payment of principal and interest—Retirement. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.311.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.100A.311.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.100A.312 (1) and (2) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2019 c 414 § 3.]

Effective date—2019 c 414: See note following RCW 43.100A.311.

43.100A.314 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.100A.311 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2019 c 414 § 4.]

Effective date—2019 c 414: See note following RCW 43.100A.311.

43.100A.315 Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.311, and RCW 43.100A.312 and 43.100A.313 shall not be deemed to provide an exclusive method for the payment. [2019 c 414 § 5.]

Effective date—2019 c 414: See note following RCW 43.100A.311.

FINANCING FOR APPROPRIATIONS— 2019-2021 AND 2021-2023 BIENNIA

43.100A.316 General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the omnibus capital and operating appropriations acts for the 2019-2021 and 2021-2023 fiscal biennia, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of \$3,971,290,793, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [2021 c 331 § 1.]

Reviser's note: Sections 1 through 5, chapter 331, Laws of 2021 were directed to be codified as a new chapter in Title 43 RCW, but codification in chapter 43.100A RCW appears to be more appropriate.

Effective date—2021 c 331: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 18, 2021]." [2021 c 331 § 8.]

43.100A.317 Conditions and limitations. (1) The proceeds from the sale of bonds authorized in RCW 43.100A.316 shall be deposited in the state building con-

struction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) \$3,800,722,793 to remain in the state building construction account created by RCW 43.83.020;

(b) \$170,568,000 to the state taxable building construction account. All receipts from taxable bonds issued are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (1)(b) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (1)(b) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection (1)(b). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

(2)(a) The state treasurer shall transfer bond proceeds deposited in the state building construction account into the outdoor recreation account created by RCW 79A.25.060, the habitat conservation account created by RCW 79A.15.020, the farm and forest account created by RCW 79A.15.130, and the Ruth Lecocq Kagi early learning facilities development account created by RCW 43.31.569, at various times and in various amounts necessary to support authorized expenditures from those accounts.

(b) The state treasurer shall transfer bond proceeds deposited in the state taxable building construction account into the Ruth Lecocq Kagi early learning facilities revolving account created by RCW 43.31.569 at various times and in various amounts necessary to support authorized expenditures from that account.

(3) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [2021 c 331 § 2.]

Reviser's note: See note following RCW 43.100A.316.

Effective date—2021 c 331: See note following RCW 43.100A.316.

43.100A.318 Retirement of bonds—Reimbursement of general fund from debt-limit general fund bond retirement account. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.316.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount

needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in RCW 43.100A.316.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.100A.317 (1) and (2) the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date. [2021 c 331 § 3.]

Reviser's note: See note following RCW 43.100A.316.

Effective date—2021 c 331: See note following RCW 43.100A.316.

43.100A.319 Pledge and promise—Remedies. (1) Bonds issued under RCW 43.100A.316 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [2021 c 331 § 4.]

Reviser's note: See note following RCW 43.100A.316.

Effective date—2021 c 331: See note following RCW 43.100A.316.

43.100A.320 Payment of principal and interest—Additional means for raising money authorized. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.100A.316, and RCW 43.100A.317 and 43.100A.318 shall not be deemed to provide an exclusive method for the payment. [2021 c 331 § 5.]

Reviser's note: See note following RCW 43.100A.316.

Effective date—2021 c 331: See note following RCW 43.100A.316.

Chapter 43.101 RCW

**CRIMINAL JUSTICE TRAINING COMMISSION—
EDUCATION AND TRAINING STANDARDS
BOARDS**

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43.101.010 Definitions. When used in this chapter:

(1) "Applicant" means an individual who has received a conditional offer of employment with a law enforcement or corrections agency.

(2) "Chief for a day program" means a program in which commissioners and staff partner with local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, "chief for a day," occurs on one day, annually or every other year and may occur on the grounds and in the facilities of the commission. The program may include any appropriate honoring of the child as a "chief," such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts such as games, puzzles, and art supplies.

(3) "Commission" means the Washington state criminal justice training commission.

(4) "Convicted" means at the time a plea of guilty, nolo contendere, or deferred sentence has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals. "Conviction" includes all instances in which a plea of guilty or nolo contendere is the basis for conviction, all proceedings in which there is a case disposition agreement, and any equivalent disposition by a court in a jurisdiction other than the state of Washington.

(5) "Correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

(6) "Corrections officer" means any corrections agency employee whose primary job function is to provide for the custody, safety, and security of adult persons in jails and detention facilities in the state. "Corrections officer" does not include individuals employed by state agencies.

(7) "Criminal justice personnel" means any person who serves as a peace officer, reserve officer, or corrections officer.

(8) "Finding" means a determination based on a preponderance of the evidence whether alleged misconduct occurred; did not occur; occurred, but was consistent with law and policy; or could neither be proven or disproven.

(9) "Law enforcement personnel" means any person elected, appointed, or employed as a general authority Washington peace officer as defined in RCW 10.93.020.

(10) "Peace officer" has the same meaning as a general authority Washington peace officer as defined in RCW 10.93.020. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter.

(11) "Reserve officer" means any person who does not serve as a peace officer of this state on a full-time basis, but who, when called by an agency into active service, is fully

commissioned on the same basis as full-time officers to enforce the criminal laws of this state and includes:

(a) Specially commissioned Washington peace officers as defined in RCW 10.93.020;

(b) Limited authority Washington peace officers as defined in RCW 10.93.020;

(c) Persons employed as security by public institutions of higher education as defined in RCW 28B.10.016; and

(d) Persons employed for the purpose of providing security in the K-12 Washington state public school system as defined in RCW 28A.150.010 and who are authorized to use force in fulfilling their responsibilities.

(12) "Tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government. [2021 c 323 § 1; 2020 c 119 § 2; 2008 c 69 § 2; 2003 c 39 § 27; 2001 c 167 § 1; 1981 c 132 § 2; 1977 ex.s. c 212 § 1; 1974 ex.s. c 94 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Finding—2008 c 69: "The legislature finds that the Washington state criminal justice commission's participation in charitable work, such as the "chief for a day" program that provides special attention to chronically ill children through recognition by various law enforcement agencies within the state, advances the overall purposes of the commission by promoting positive relationships between law enforcement and the citizens of the state of Washington." [2008 c 69 § 1.]

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29A.08.520.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

43.101.020 Commission created—Purpose. (1) There is hereby created and established a state commission to be known and designated as the Washington state criminal justice training commission.

(2) The purpose of the commission shall be to establish and administer standards and processes for certification, suspension, and decertification of peace officers and corrections officers. The commission shall provide programs and training that enhance the integrity, effectiveness, and professionalism of peace officers and corrections officers while helping to ensure that law enforcement and correctional services are delivered to the people of Washington in a manner that fully complies with the Constitutions and laws of this state and United States. In carrying out its duties, the commission shall strive to promote public trust and confidence in every aspect of the criminal justice system. [2021 c 323 § 2; 1974 ex.s. c 94 § 2.]

43.101.021 Policy. It is the policy of the state of Washington that all commissioned, appointed, and elected law enforcement personnel comply with their oath of office and agency policies regarding the duty to be truthful and honest in the conduct of their official business. [2010 c 294 § 1.]

43.101.030 Membership. The commission shall consist of 21 members as follows:

(1) The governor shall appoint:

(a) One incumbent sheriff and one incumbent chief of police. The governor shall additionally appoint an alternate incumbent chief of police who may perform commission duties in place of the appointed incumbent chief if that person is unavailable;

(b) Two officers at or below the level of first line supervisor who:

(i) Have at least ten years' experience as law enforcement officers;

(ii) Are from two different law enforcement agencies that each have at least 15 officers and are different than the agencies with which the members in (a) of this subsection are affiliated; and

(iii) Are affiliated with different labor organizations;

(c) One tribal police officer at or below the level of first line supervisor who has at least 10 years' experience as a law enforcement officer;

(d) One person employed in a state or county corrections agency;

(e) One incumbent county prosecuting attorney or municipal attorney and one public defender;

(f) One licensed attorney with background in investigating, advocating, teaching, training, or presiding over matters related to enhancing law enforcement practices and accountability, who has not been employed in law enforcement;

(g) One elected official of a local government who is not a sheriff or police chief and has not been employed in the last 10 years as a peace officer or prosecutor in any jurisdiction;

(h) One person with civilian oversight or auditing experience over law enforcement agencies;

(i) Seven community members who are not employed in law enforcement, including at least two who reside east of the crest of the Cascade mountains and at least three who are from a historically underrepresented community or communities; and

(j) One tribal chair, board member, councilmember, or enrolled member from a federally recognized tribe with an active certification agreement under RCW 43.101.157 who is not a sheriff and has not been employed in the last 10 years as a peace officer or prosecutor in any jurisdiction;

(2) The attorney general or the attorney general's designee;

(3) The chief of the state patrol or the chief's designee. [2021 c 323 § 3; 2020 c 44 § 1; 1999 c 97 § 1; 1981 c 132 § 3; 1979 ex.s. c 55 § 1; 1974 ex.s. c 94 § 3.]

43.101.040 Terms of members—Vacancies. All members appointed to the commission by the governor shall be appointed for terms of six years, such terms to commence on July first, and expire on June thirtieth. However, for members first appointed as a result of chapter 323, Laws of 2021, the governor shall appoint members to terms ranging from two years to six years in order to stagger future appointments. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member the appointee is to succeed. Any member may be reappointed for additional terms. [2021 c 323 § 4; 2009 c 549 § 5167; 1974 ex.s. c 94 § 4.]

43.101.050 Cessation of membership upon termination of office or employment. Any member of the commission appointed pursuant to RCW 43.101.030 as an incumbent official or as an employee in a correctional system, as the case may be, shall immediately upon the termination of his or her holding of said office or employment, cease to be a mem-

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ber of the commission. [2009 c 549 § 5168; 1974 ex.s. c 94 § 5.]

43.101.060 Chair and vice chair—Quorum—Meetings. The commission shall elect a chair and a vice chair from among its members. Nine members of the commission shall constitute a quorum.

The commission shall meet at least quarterly. Additional meetings may be called by the chair and shall be called by the chair upon the written request of six members. [2021 c 323 § 5; 1999 c 97 § 2; 1974 ex.s. c 94 § 6.]

43.101.070 Compensation—Reimbursement of travel expenses. Members of the commission shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Attendance at meetings of the commission shall be deemed performance by a member of the duties of his or her employment. [2009 c 549 § 5169; 1984 c 287 § 85; 1975-'76 2nd ex.s. c 34 § 126; 1974 ex.s. c 94 § 7.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.101.080 Commission powers and duties—Rules and regulations. The commission shall have all of the following powers:

(1) Conduct training, including the basic law enforcement academy and in-service training, and assume legal, fiscal, and program responsibility for all training conducted by the commission;

(2) Grant, deny, suspend, or revoke certification of, or require remedial training for, peace officers and corrections officers under the provisions of this chapter;

(3) Grant, deny, suspend, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process;

(4) Related to its duties under subsections (2) and (3) of this section, provide for the comprehensive and timely investigation of complaints where necessary to ensure adherence to law and agency policy, strengthen the integrity and accountability of peace officers and corrections officers, and maintain public trust and confidence in the criminal justice system in this state;

(5) Establish, by rule and regulation, curricula and standards for the training of criminal justice personnel where such curricula and standards are not prescribed by statute;

(6) Own, establish, and operate, or contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel;

(7) Review and approve or reject standards for instructors of training programs for criminal justice personnel, and employ personnel from law enforcement agencies on a temporary basis as instructors without any loss of employee benefits to those instructors from those agencies;

(8) Direct the development of alternative, innovative, and interdisciplinary training techniques;

(9) Review and approve or reject training programs conducted for criminal justice personnel and rules establishing

and prescribing minimum training and education standards, including continuing education;

(10) Allocate financial resources among training and education programs conducted by the commission;

(11) Purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities and allocate training facility space among training and education programs conducted by the commission;

(12) Issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(13) Provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

(14) Establish rules and regulations prescribing minimum standards relating to physical, mental, and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;

(15) Require county, city, port, or state law enforcement and corrections agencies that make a conditional offer of employment to an applicant as a fully commissioned peace officer, a reserve officer, or a corrections officer to administer a background investigation in accordance with the requirements of RCW 43.101.095 to determine the applicant's suitability for employment as a fully commissioned peace officer, reserve officer, or corrections officer;

(16) Appoint members of a hearings panel as provided under RCW 43.101.380;

(17) Issue public recommendations to the governing body of a law enforcement agency regarding the agency's command decisions, inadequacy of policy or training, investigations or disciplinary decisions regarding misconduct, potential systemic violations of law or policy, unconstitutional policing, or other matters;

(18) Promote positive relationships between law enforcement and the residents of the state of Washington through commissioners and staff participation in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC;

(19) Adopt, amend, repeal, and administer rules and regulations pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW. [2021 c 323 § 6; 2020 c 119 § 13; 2018 c 32 § 4; 2015 c 225 § 90; 2011 c 234 § 1; 2008 c 69 § 3; 2005 c 434 § 1; 2001 c 166 § 1; 1982 c 124 § 1; 1975-'76 2nd ex.s. c 17 § 3. Prior: 1975 1st ex.s. c 103 § 1; 1975 1st ex.s. c 82 § 1; 1974 ex.s. c 94 § 8.]

Finding—2008 c 69: See note following RCW 43.101.010.

43.101.085 Additional powers and duties. In addition to its other powers granted under this chapter, the commission has authority and power to:

(1) Contract for services as it deems necessary in order to carry out its duties and responsibilities;

(2) Cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;

(3) Select and employ an executive director, and empower the director to perform such duties and responsibilities as the commission may deem necessary;

(4) Issue subpoenas and statements of charges, and administer oaths in connection with investigations, hearings, or other proceedings held under this chapter, or designate individuals to do so;

(5) Employ such staff as necessary for the implementation and enforcement of this chapter;

(6) Take or cause to be taken depositions and other discovery procedures as needed in investigations, hearings, and other proceedings held under this chapter;

(7) Enter into contracts for professional services determined by the commission to be necessary for adequate enforcement of this chapter; and

(8) Exercise lawful actions necessary to enable the commission to fully and adequately perform its duties and to exercise the lawful powers granted to the commission. [2021 c 323 § 7; 2020 c 119 § 1; 2006 c 22 § 1; 2001 c 167 § 7.]

Additional notes found at www.leg.wa.gov

43.101.095 Peace and corrections officer certification—Background investigation. (1) As a condition of employment, all Washington peace officers and corrections officers are required to obtain certification as a peace officer or corrections officer or exemption therefrom and maintain certification as required by this chapter and the rules of the commission.

(2)(a) Any applicant who has been offered a conditional offer of employment as a peace officer or reserve officer or offered a conditional offer of employment as a corrections officer after July 1, 2021, including any person whose certification has lapsed as a result of a break of more than 24 consecutive months in the officer's service for a reason other than being recalled to military service, must submit to a background investigation to determine the applicant's suitability for employment. Employing agencies may only make a conditional offer of employment pending completion of the background check and shall verify in writing to the commission that they have complied with all background check requirements prior to making any nonconditional offer of employment.

(b) The background check must include:

(i) A check of criminal history, any national decertification index, commission records, and all disciplinary records by any previous law enforcement or correctional employer, including complaints or investigations of misconduct and the reason for separation from employment. Law enforcement or correctional agencies that previously employed the applicant shall disclose employment information within 30 days of receiving a written request from the employing agency conducting the background investigation, including the reason for the officer's separation from the agency. Complaints or investigations of misconduct must be disclosed regardless of the result of the investigation or whether the complaint was unfounded;

(ii) Inquiry to the local prosecuting authority in any jurisdiction in which the applicant has served as to whether the applicant is on any potential impeachment disclosure list;

(iii) Inquiry into whether the applicant has any past or present affiliations with extremist organizations, as defined by the commission;

(iv) A review of the applicant's social media accounts;

(v) Verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident;

(vi) A psychological examination administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission;

(vii) A polygraph or similar assessment administered by an experienced professional with appropriate training and in compliance with standards established in rules of the commission; and

(viii) Except as otherwise provided in this section, any test or assessment to be administered as part of the background investigation shall be administered in compliance with standards established in rules of the commission.

(c) The commission may establish standards for the background check requirements in this section and any other preemployment background check requirement that may be imposed by an employing agency or the commission.

(d) The employing law enforcement agency may require that each person who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or \$400, whichever is less. Employing agencies may establish a payment plan if they determine that the person does not readily have the means to pay the testing fee.

(3) The commission shall allow a peace officer or corrections officer to retain status as a certified peace officer or corrections officer as long as the officer: (a) Timely meets the basic training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (b) timely meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification suspended or revoked by the commission.

(4) As a condition of certification, a peace officer or corrections officer must, on a form devised or adopted by the commission, authorize the release to the employing agency and commission of the officer's personnel files, including disciplinary, termination, civil or criminal investigation, or other records or information that are directly related to a certification matter or decertification matter before the commission. The peace officer or corrections officer must also consent to and facilitate a review of the officer's social media accounts, however, consistent with RCW 49.44.200, the officer is not required to provide login information. The release of information may not be delayed, limited, or precluded by any agreement or contract between the officer, or the officer's union, and the entity responsible for the records or information.

(5) The employing agency and commission are authorized to receive criminal history record information that

includes nonconviction data for any purpose associated with employment or certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

(6) For a national criminal history records check, the commission shall require fingerprints be submitted and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

(7) Prior to certification, the employing agency shall certify to the commission that the agency has completed the background check, no information has been found that would disqualify the applicant from certification, and the applicant is suitable for employment as a peace officer or corrections officer. [2021 c 323 § 8; 2018 c 32 § 5; 2011 c 234 § 2; 2009 c 139 § 1; 2008 c 74 § 8; 2005 c 434 § 2; 2001 c 167 § 2.]

Finding—2008 c 74: See note following RCW 51.04.024.

43.101.105 Denial, suspension, or revocation of peace and corrections officer certification. (1) To help prevent misconduct, enhance peace officer and corrections officer accountability through the imposition of sanctions commensurate to the wrongdoing when misconduct occurs, and enhance public trust and confidence in the criminal justice system, upon request by an officer's employer or on its own initiative, the commission may deny, suspend, or revoke certification of, or require remedial training for, an officer as provided in this section. The commission shall provide the officer with written notice and a hearing, if a hearing is timely requested by the officer under RCW 43.101.155. Notice and hearing are not required when a peace officer voluntarily surrenders certification.

(2) The commission must deny or revoke the certification of an applicant or officer if the applicant or officer:

(a)(i) Has been convicted of:

(A) A felony offense;

(B) A gross misdemeanor domestic violence offense;

(C) An offense with sexual motivation as defined in RCW 9.94A.030;

(D) An offense under chapter 9A.44 RCW; or

(E) A federal or out-of-state offense comparable to an offense listed in (a)(i)(A) through (D) of this subsection (2); and

(ii)(A) The offense was not disclosed at the time of application for initial certification; or

(B) The officer was a certified peace officer or corrections officer at the time of the offense; and

(iii) The offense is not one for which the officer was granted a full and unconditional pardon; and

(iv) The offense was not adjudicated as a juvenile and the record sealed;

(b) Has been terminated by the employing agency or otherwise separated from the employing agency after engaging in, or was found by a court to have engaged in, the use of force which resulted in death or serious injury and the use of force violated the law;

(c) Has been terminated by the employing agency or otherwise separated from the employing agency after witnessing, or found by a court to have witnessed, another officer's use of excessive force and:

(i) Was in a position to intervene to end the excessive use of force and failed to do so; or

(ii) Failed to report the use of excessive force in accordance with agency policy or law;

(d) Has been terminated by the employing agency or otherwise separated from the employing agency after knowingly making, or found by a court to have knowingly made, misleading, deceptive, untrue, or fraudulent representations in the practice of being a peace officer or corrections officer including, but not limited to, committing perjury, filing false reports, hiding evidence, or failing to report exonerating information. This subsection (2)(d) does not apply to representations made in the course and for the purposes of an undercover investigation or other lawful law enforcement purpose; or

(e) Is prohibited from possessing weapons by state or federal law or by a permanent court order entered after a hearing.

(3) The commission may deny, suspend, or revoke certification or require remedial training of an applicant or officer if the applicant or officer:

(a) Failed to timely meet all requirements for obtaining a certificate of basic law enforcement or corrections training, a certificate of basic law enforcement or corrections training equivalency, or a certificate of exemption from the training;

(b) Was previously issued a certificate through administrative error on the part of the commission;

(c) Knowingly falsified or omitted material information on an application to the employer or for training or certification to the commission;

(d) Interfered with an investigation or action for denial or revocation of certification by:

(i) Knowingly making a materially false statement to the commission;

(ii) Failing to timely and accurately report information to the commission as required by law or policy; or

(iii) In any matter under review or investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness;

(e) Engaged in a use of force that could reasonably be expected to cause physical injury, and the use of force violated the law or policy of the officer's employer;

(f) Committed sexual harassment as defined by state law;

(g) Through fraud or misrepresentation, has used the position of peace officer or corrections officer for personal gain;

(h) Engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religion, creed, color, national origin, immigration status, disability, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status;

(i) Has affiliation with one or more extremist organizations;

(j) Whether occurring on or off duty, has:

(i) Been found to have committed a felony, without regard to conviction;

(ii) Engaged in a pattern of acts showing an intentional or reckless disregard for the rights of others, including but not limited to violation of an individual's constitutional rights

under the state or federal Constitution or a violation of RCW 10.93.160;

(iii) Engaged in unsafe practices involving firearms, weapons, or vehicles which indicate either a willful or wanton disregard for the safety of persons or property; or

(iv) Engaged in any conduct or pattern of conduct that: Fails to meet the ethical and professional standards required of a peace officer or corrections officer; disrupts, diminishes, or otherwise jeopardizes public trust or confidence in the law enforcement profession and correctional system; or demonstrates an inability or unwillingness to uphold the officer's sworn oath to enforce the Constitution and laws of the United States and the state of Washington;

(k) Has been suspended or discharged, has resigned or retired in lieu of discharge, or has separated from the agency after the alleged misconduct occurred, for any conduct listed in this section; or

(l) Has voluntarily surrendered the person's certification as a peace officer or corrections officer.

(4) In addition to the penalties set forth in subsection (3) of this section, the commission may require mandatory retraining or placement on probation for up to two years, or both. In determining the appropriate penalty or sanction, the commission shall consider: The findings and conclusions, and the basis for the findings and conclusions, of any due process hearing or disciplinary appeals hearing following an investigation by a law enforcement agency regarding the alleged misconduct, if such hearing has occurred prior to the commission's action; any sanctions or training ordered by the employing agency regarding the alleged misconduct; and whether the employing agency bears any responsibility for the situation.

(5) The commission shall deny certification to any applicant who lost certification as a result of a break in service of more than 24 consecutive months if that applicant failed to comply with the requirements set forth in RCW 43.101.080(15) and 43.101.095(2).

(6) The fact that the commission has suspended an officer's certification is not, in and of itself, a bar to the employing agency's maintenance of the officer's health and retirement benefits.

(7) Any suspension or period of probation imposed by the commission shall run concurrently to any leave or discipline imposed by the employing agency for the same incident.

(8) A law enforcement agency may not terminate a peace officer based solely on imposition of suspension or probation by the commission. This subsection does not prohibit a law enforcement agency from terminating a peace officer based on the underlying acts or omissions for which the commission took such action.

(9) Any of the misconduct listed in subsections (2) and (3) of this section is grounds for denial, suspension, or revocation of certification of a reserve officer to the same extent as applied to a peace officer, if the reserve officer is certified pursuant to RCW 43.101.095. [2021 c 323 § 9; 2011 c 234 § 3; 2005 c 434 § 3; 2001 c 167 § 3.]

43.101.115 Denial or revocation of peace or corrections officer certification—Readmission to academy—Reinstatement. (1) A person denied a certification based

upon dismissal or withdrawal from a basic law enforcement academy or basic corrections academy under RCW 43.101.105(3)(a) is eligible for readmission and certification upon meeting standards established in rules of the commission, which rules may provide for probationary terms on readmission.

(2) A person whose certification is denied or revoked based upon prior administrative error of issuance, failure to cooperate, or interference with an investigation is eligible for certification upon meeting standards established in rules of the commission, which rules shall provide for a probationary period of certification in the event of reinstatement of eligibility.

(3) A person whose certification is mandatorily denied or revoked pursuant to RCW 43.101.105(2) is not eligible for certification at any time.

(4) A person whose certification is denied or revoked for reasons other than provided in subsections (1) through (3) of this section may, five years after the revocation or denial, petition the commission for reinstatement of the certificate or for eligibility for reinstatement. The commission may hold a hearing on the petition to consider reinstatement, and the commission may allow reinstatement based upon standards established in rules of the commission. If the certificate is reinstated or eligibility for certification is determined, the commission shall establish a probationary period of certification.

(5) A person whose certification is revoked based solely upon a criminal conviction may petition the commission for reinstatement immediately upon a final judicial reversal of the conviction. The commission shall hold a hearing on request to consider reinstatement, and the commission may allow reinstatement based on standards established in rules of the commission. If the certificate is reinstated or if eligibility for certification is determined, the commission shall establish a probationary period of certification.

(6) The commission's rules and decisions regarding reinstatement shall align with its responsibilities to enhance public trust and confidence in the law enforcement profession and correctional system. [2021 c 323 § 10; 2001 c 167 § 4.]

43.101.121 Denial or revocation of certification—Subsequent certification as corrections officer or peace officer. An individual whose peace officer certification is denied or revoked pursuant to this chapter may not thereafter be certified as a corrections officer without first satisfying the requirements of eligibility for certification or reinstatement of certification. A corrections officer whose corrections officer certification is denied or revoked pursuant to this chapter may not thereafter be certified as a peace officer without first satisfying the requirements of eligibility for certification or reinstatement of certification. [2020 c 119 § 11.]

43.101.125 Lapsed peace officer certification—Reinstatement—Rules. A peace officer's certification lapses automatically when there is a break of more than twenty-four consecutive months in the officer's service as a full-time law enforcement officer. A break in full-time law enforcement service which is due solely to the pendency of direct review or appeal from a disciplinary discharge, or to the pendency of a work-related injury, does not cause a lapse in certification.

The officer may petition the commission for reinstatement of certification. Upon receipt of a petition for reinstatement of a lapsed certificate, the commission shall determine under this chapter and any applicable rules of the commission if the peace officer's certification status is to be reinstated, and the commission shall also determine any requirements which the officer must meet for reinstatement. The commission may adopt rules establishing requirements for reinstatement. [2001 c 167 § 5.]

43.101.126 Lapsed corrections officer certification—Reinstatement—Rules. A corrections officer's certification lapses automatically when there is a break of more than twenty-four consecutive months in the officer's service as a full-time corrections officer. A break in full-time corrections service which is due solely to the pendency of direct review or appeal from a disciplinary discharge, or to the pendency of a work-related injury, does not cause a lapse in certification. The officer may petition the commission for reinstatement of certification. Upon receipt of a petition for reinstatement of a lapsed certificate, the commission shall determine under this chapter and any applicable rules of the commission if the corrections officer's certification status is to be reinstated, and the commission shall also determine any requirements which the officer must meet for reinstatement. The commission may adopt rules establishing requirements for reinstatement. [2020 c 119 § 6.]

43.101.135 Separation of peace or corrections officer—Notification to commission—Investigation—Civil penalty. (1)(a) Upon separation of a peace officer or corrections officer from an employing agency for any reason, including termination, resignation, or retirement, the agency shall notify the commission within 15 days of the separation date on a personnel action report form provided by the commission.

(b) If the employer accepts an officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale in the information provided to the commission, including the findings from any internal or external investigations into alleged misconduct.

(2) In addition to those circumstances under subsection (1) of this section and whether or not disciplinary proceedings have been concluded, the employing agency shall:

(a) Notify the commission within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by an officer or any time an officer has been charged with a crime. Employing agencies must have a policy requiring officers to report any pending criminal charges and any conviction, plea, or other case disposition immediately to their agency; and

(b) Notify the commission within 15 days of an initial disciplinary decision by an employing agency for alleged behavior or conduct by an officer that is noncriminal and may result in revocation of certification pursuant to RCW 43.101.105.

(3) To better enable the commission to act swiftly and comprehensively when misconduct has occurred that may undermine public trust and confidence in law enforcement or the correctional system, if the totality of the circumstances support a conclusion that the officer resigned or retired in

anticipation of discipline, whether or not the misconduct was discovered at the time, and when such discipline, if carried forward, would more likely than not have led to discharge, or if the officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge, the employing agency shall conduct and complete the investigation and provide all relevant information to the commission as if the officer were still employed by the agency.

(4) Upon request of the commission, the employing agency shall provide such additional documentation or information as the commission deems necessary to determine whether the separation or event provides grounds for suspension or revocation.

(5) At its discretion, the commission may:

(a) Initiate decertification proceedings upon conclusion of any investigation or disciplinary proceedings initiated by the employing agency;

(b) Separately pursue action against the officer's certification under RCW 43.101.105; or

(c) Wait to proceed until any investigation, disciplinary proceedings, or appeals through the employing agency are final before taking action. Where a decertification decision requires a finding that the officer's conduct violated policy and the employing agency has begun its investigation into the underlying event, the commission shall await notification of a finding by the employing agency before beginning the decertification process.

(6) No action or failure to act by an employing agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certification.

(7) An employing agency may not enter into any agreement or contract with an officer, or union:

(a) Not to report conduct, delay reporting, or preclude disclosure of any relevant information, including a promise not to check the box on a commission notice that indicates the officer may have committed misconduct, in exchange for allowing an officer to resign or retire or for any other reason; or

(b) That allows the agency to destroy or remove any personnel record while the officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and other disciplinary appeals and litigation records.

(8) The commission shall maintain all information provided pursuant to this section in a permanent file.

(9) In addition to disciplinary action authorized in RCW 43.101.105, the commission may impose a civil penalty not to exceed \$10,000 for the failure by an officer or an employing agency to timely and accurately report information pursuant to this section. [2021 c 323 § 11; 2001 c 167 § 6.]

43.101.145 Written complaint to deny, suspend, or revoke peace or corrections officer certification—Immunity of complainant. (1) Any individual may submit a written complaint to the commission stating that an officer's certificate should be denied, suspended, or revoked, and specify-

ing the grounds for the complaint. Filing a complaint does not make a complainant a party to the commission's action.

(2) The commission has sole discretion whether to investigate a complaint, and the commission has sole discretion whether to investigate matters relating to certification, denial of certification, or revocation of certification on any other basis, without restriction as to the source or the existence of a complaint. All complaints must be resolved with a written determination, regardless of the decision to investigate.

(3) The commission may initiate an investigation in any instance where there is a pattern of complaints or other actions that may not have resulted in a formal adjudication of wrongdoing, but when considered together demonstrate conduct that would constitute a violation of RCW 43.101.105 (2) or (3). The commission must consider the agency's policies and procedures and the officer's job duties and assignment in determining what constitutes a pattern.

(4) A person who files a complaint in good faith under this section is immune from suit or any civil action related to the filing or the contents of the complaint. [2021 c 323 § 12; 2001 c 167 § 8.]

43.101.155 Denial, suspension, or revocation of peace or corrections officer certification—Statement of charges—Notice—Hearing. (1) If the commission determines, upon investigation, that there is cause to believe that a peace officer's or corrections officer's certification should be denied, suspended, or revoked under RCW 43.101.105, the commission must prepare and serve upon the officer a statement of charges. Service on the officer must be by mail or by personal service on the officer unless the officer has consented to service in some other manner, including electronic notification. Notice of the charges must also be mailed to or otherwise served upon the officer's agency of separation and any current agency employer. The statement of charges must be accompanied by a notice that to receive a hearing on the denial or revocation, the officer must, within 60 days of the statement of charges, request a hearing before the hearings panel appointed under RCW 43.101.380. Failure of the officer to request a hearing within the 60-day period constitutes a default, whereupon the commission may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the officer is required to provide an email address that constitutes the officer's legal address for purposes of any subsequent communication from the commission. Unless otherwise agreed to by the mutual agreement of the parties or for good cause, within two weeks of receipt of the officer's request for a hearing, the commission shall set a date for the hearing, which must be held within 90 days thereafter. On the date the hearing is set, the commission shall transmit electronic and written notice of the hearing to the officer, and provide public notice on the commission website, specifying the time, date, and place of hearing. [2021 c 323 § 13; 2001 c 167 § 9.]

43.101.157 Tribal police officer certification. (1) Tribal governments may voluntarily request certification for their police officers. Tribal governments requesting certification for their police officers must enter into a written agreement with the commission. The agreement must require the tribal law enforcement agency and its officers to comply with

all of the requirements for granting, denying, and revoking certification as those requirements are applied to peace officers certified under this chapter and the rules of the commission. To ensure clarity regarding the requirements with which the tribal government and its police officers must comply should the tribal government request certification, a tribal government may first request consultation with the commission.

(2) Officers making application for certification as tribal police officers shall meet the requirements of this chapter and the rules of the commission as those requirements are applied to certification of peace officers. Application for certification as a tribal police officer shall be accepted and processed in the same manner as those for certification of peace officers. [2021 c 323 § 14; 2006 c 22 § 2.]

Additional notes found at www.leg.wa.gov

43.101.170 Training and education obtained at approved existing institutions. In establishing standards for training and education, the commission may, so far as consistent with the purposes of *RCW 43.101.160, permit required training and education of any criminal justice personnel to be obtained at existing institutions approved for such training by the commission. [1974 ex.s. c 94 § 17.]

*Reviser's note: RCW 43.101.160 was repealed by 1983 c 197 § 55, effective June 30, 1987.

43.101.190 Receipt of grants, funds or gifts authorized—Administration—Utilization of federal funds. The commission, or the executive director acting on its behalf, is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter.

The services provided by the state through the establishment and maintenance of the programs of the commission are primarily intended for the benefit of the criminal justice agencies of the counties, cities, and towns of this state. To the extent that funds available to the state under the Crime Control Act of 1973 are utilized by the commission, it is the determination of the legislature that, to the maximum extent permitted by federal law, such funds as are so utilized shall be charged against that portion of United States law enforcement assistance administration funds which the state is required to make available to units of local government pursuant to section 303(a)(2) of Part C of the Crime Control Act of 1973. [1974 ex.s. c 94 § 19.]

43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide.

(1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed

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on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) Except as provided in RCW 43.101.170, the commission shall provide the aforementioned training and shall have the sole authority to do so. The commission shall provide necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week, except during the 2017-2019, 2019-2021, and 2021-2023 fiscal biennia when the employing, county, city, or state law enforcement agency shall reimburse the commission for twenty-five percent of the cost of training its personnel. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period. [2021 c 334 § 977; 2021 c 323 § 31; 2019 c 415 § 969; 2017 3rd sp.s. c 1 § 973; 2015 3rd sp.s. c 4 § 957; 2013 2nd sp.s. c 4 § 982; 2011 1st sp.s. c 50 § 949; 1997 c 351 § 13. Prior: 1993 sp.s. c 24 § 920; 1993 sp.s. c 21 § 5; 1989 c 299 § 2; 1977 ex.s. c 212 § 2.]

Reviser's note: This section was amended by 2021 c 323 § 31 and by 2021 c 334 § 977, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

43.101.205 Training on interaction with persons with substance use disorders. (1) Beginning July 1, 2022, all law enforcement personnel required to complete basic law enforcement training under RCW 43.101.200 must receive training on law enforcement interaction with persons with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions, and referral to treatment and recovery services and the unique referral processes for youth, as part of the basic law enforcement training. The training must be developed by the commission in collaboration with the University of Washington behavioral health institute and agencies that have expertise in the area of working with persons with substance use disorders, including law enforcement diversion of such individuals to community-based care. In developing the training, the commission must also examine existing courses certified by the commission that relate to persons with a substance use disorder, and should draw on existing training partnerships with the Washington association of sheriffs and police chiefs.

(2) The training must consist of classroom instruction or internet instruction and shall replicate likely field situations to the maximum extent possible. The training should include, at a minimum, core instruction in all of the following:

- (a) Proper procedures for referring persons to the recovery navigator program in accordance with RCW 71.24.115;
- (b) The etiology of substance use disorders, including the role of trauma;
- (c) Barriers to treatment engagement experienced by many with such disorders who have contact with the legal system;
- (d) How to identify indicators of substance use disorder and how to respond appropriately in a variety of common situations;
- (e) Conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with a substance use disorder;
- (f) Appropriate language usage when interacting with persons with a substance use disorder;
- (g) Alternatives to lethal force when interacting with potentially dangerous persons with a substance use disorder;
- (h) The principles of recovery and the multiple pathways to recovery; and
- (i) Community and state resources available to serve persons with substance use disorders and how these resources can be best used by law enforcement to support persons with a substance use disorder in their communities.

(3) In addition to incorporation into the basic law enforcement training under RCW 43.101.200, training must be made available to law enforcement agencies, through electronic means, for use during in-service training. [2021 c 311 § 7.]

Effective date—2021 c 311 §§ 1-11 and 13-21: See note following RCW 71.24.115.

43.101.220 Training for corrections personnel. (1) The corrections personnel of the state and all counties and municipal corporations initially employed on or after January 1, 1982, shall engage in basic corrections training which complies with standards adopted by the commission. The standards adopted must provide for basic corrections training of at least ten weeks in length for any corrections officers subject to the certification requirement under *RCW 43.101.096 who are hired on or after July 1, 2021, or on an earlier date set by the commission. The training shall be successfully completed during the first six months of employment of the personnel, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(2) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for noncommuting attendees, except during the 2017-2019, 2019-2021, and 2021-2023 fiscal biennia, when the employing county, municipal corporation, or state agency shall reimburse the commission for twenty-five percent of the cost of training its personnel.

(3)(a) Subsections (1) and (2) of this section do not apply to the Washington state department of corrections prisons division. The Washington state department of corrections is responsible for identifying training standards, designing curricula and programs, and providing the training for those cor-

rections personnel employed by it. In doing so, the secretary of the department of corrections shall consult with staff development experts and correctional professionals both inside and outside of the agency, to include soliciting input from labor organizations.

(b) The commission and the department of corrections share the responsibility of developing and defining training standards and providing training for community corrections officers employed within the community corrections division of the department of corrections. [2021 c 334 § 978; 2020 c 119 § 14; 2019 c 415 § 970; 2017 3rd sp.s. c 1 § 972; 2015 3rd sp.s. c 4 § 958; 2014 c 221 § 918; 2009 c 146 § 2; 2007 c 382 § 1; 1981 c 136 § 26.]

***Reviser's note:** RCW 43.101.096 was repealed by 2021 c 323 § 29. See RCW 43.101.095.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective date—2014 c 221: See note following RCW 28A.710.260.

Intent—2009 c 146: "The intent of the legislature is that all corrections personnel employed by the Washington department of corrections are prepared to carry out the demands of their position that they are likely to encounter during their daily duties. The protection of the public, department employees, and inmates are a primary reason to ensure that everyone is adequately trained and knowledgeable in routine and emergency procedures.

To best carry out this mission it is necessary for the Washington state department of corrections to have the authority, discretion, and ability to design and conduct mandatory training that best meets the needs of its changing offender population." [2009 c 146 § 1.]

Additional notes found at www.leg.wa.gov

43.101.221 Training for corrections personnel—Core training requirements. (1) All new corrections personnel employed by the Washington state department of corrections shall, within a period to be determined by the secretary of the department of corrections, successfully complete core training requirements prescribed or obtain a waiver or extension of the core training requirements from the secretary.

(2) Within a period to be determined by the secretary of the Washington state department of corrections after completion of the core training requirements of this section, corrections personnel employed by the department shall successfully complete all remaining requirements for career level certification prescribed by the secretary applicable to their position or rank, or obtain a waiver or extension of the career level training requirements from the secretary.

(3) The secretary of the department of corrections is responsible for assuring that the training needs of the corrections personnel are met by the department's training program. Once a year, the secretary is responsible for conducting an assessment of the training programs for the corrections personnel employed by the department. [2009 c 146 § 3.]

43.101.222 Training for students enrolled at institutions of higher education. The commission may provide basic law enforcement training to students who are enrolled in criminal justice courses of study at four-year institutions of higher education, if the training is provided during the sum-

mers following the students' junior and senior years and so long as the students bear the full cost of the training. [1996 c 203 § 3.]

Additional notes found at www.leg.wa.gov

43.101.224 Training for persons investigating child sexual abuse. (1) Ongoing specialized training shall be provided for persons responsible for investigating child sexual abuse. Training participants shall have the opportunity to practice interview skills and receive feedback from instructors.

(2) The commission, the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys shall design and implement statewide training that contains consistent elements for persons engaged in the interviewing of children for child sexual abuse cases, including law enforcement, prosecution, and child protective services.

(3) The training shall: (a) Be based on research-based practices and standards; (b) minimize the trauma of all persons who are interviewed during abuse investigations; (c) provide methods of reducing the number of investigative interviews necessary whenever possible; (d) assure, to the extent possible, that investigative interviews are thorough, objective, and complete; (e) recognize needs of special populations, such as persons with developmental disabilities; (f) recognize the nature and consequences of victimization; (g) require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; (h) address record retention and retrieval; and (i) documentation of investigative interviews. [1999 c 389 § 2.]

43.101.225 Training on vehicular pursuits. (1) By June 30, 2006, every new full-time law enforcement officer employed, after July 27, 2003, by a state, county, or municipal law enforcement agency shall be trained on vehicular pursuits.

(2) Beginning July 1, 2006, every new full-time law enforcement officer employed by a state, county, or municipal law enforcement agency shall be trained on vehicular pursuits, within six months of employment.

(3) Nothing in chapter 37, Laws of 2003 requires training on vehicular pursuit of any law enforcement officer who is employed in a state, county, or city law enforcement agency on July 27, 2003, beyond that which he or she has received prior to July 27, 2003. [2003 c 37 § 3.]

Intent—2003 c 37: "The legislature intends to improve the safety of law enforcement officers and the public by providing consistent education and training for officers in the matter of vehicle pursuit. The legislature recognizes there are a multitude of factors which enter into the determination of pursuit and intends that the criminal justice training commission be given the responsibility of identifying those factors and developing appropriate standards for training of law enforcement officers in this area." [2003 c 37 § 1.]

43.101.227 Training for interaction with persons with a developmental disability or mental illness. (1) The commission must offer a training session on law enforcement interaction with persons with a developmental disability or mental illness. The training must be developed by the commission in consultation with appropriate self advocate and family advocate groups and with appropriate community,

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local, and state organizations and agencies that have expertise in the area of working with persons with a developmental disability or mental illness. In developing the course, the commission must also examine existing courses certified by the commission that relate to persons with a developmental disability or mental illness.

(2) The training must consist of classroom instruction or internet instruction and shall replicate likely field situations to the maximum extent possible. The training should include, at a minimum, core instruction in all of the following:

(a) The cause and nature of mental illnesses and developmental disabilities;

(b) How to identify indicators of mental illness and developmental disability and how to respond appropriately in a variety of common situations;

(c) Conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with a developmental disability or mental illness;

(d) Appropriate language usage when interacting with persons with a developmental disability or mental illness;

(e) Alternatives to lethal force when interacting with potentially dangerous persons with a developmental disability or mental illness; and

(f) Community and state resources available to serve persons with a developmental disability or mental illness and how these resources can be best used by law enforcement to benefit persons with a developmental disability or mental illness in their communities.

(3) The training shall be made available to law enforcement agencies, through electronic means, for use at their convenience and determined by the internal training needs and resources of each agency.

(4) The commission shall make all reasonable efforts to secure private and nonstate public funds to implement this section. [2003 c 270 § 1.]

43.101.230 Training for tribal police officers and employees authorized—Conditions. Tribal police officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010 shall be provided training under this chapter if: (a) [(1)] The tribe is recognized by the federal government, and (b) [(2)] the tribe pays to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account. [2021 c 323 § 15; 1981 c 134 § 1.]

43.101.240 Community-police partnership. (1) The criminal justice training commission in cooperation with the United States department of justice department of community relations (region X) shall conduct an assessment of successful community-police partnerships throughout the United States. The commission shall develop training for local law enforcement agencies targeted toward those communities where there has been a substantial increase in drug crimes. The purpose of the training is to facilitate cooperative community-police efforts and enhanced community protection to reduce drug abuse and related crimes. The training shall include but not be limited to conflict management, ethnic

sensitivity, cultural awareness, and effective community policing.

(2) Local law enforcement agencies are encouraged to form community-police partnerships in all neighborhoods and particularly areas with high rates of criminal activity. These partnerships are encouraged to organize citizen-police task forces which meet on a regular basis to promote greater citizen involvement in combatting drug abuse and to reduce tension between police and citizens. Partnerships that are formed are encouraged to report to the criminal justice training commission of their formation and progress. [1994 sp.s. c 7 § 311; 1989 c 271 § 423.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.101.250 Firearms certificate program for *private detectives. The commission shall establish a program for issuing firearms certificates to *private detectives for the purposes of obtaining armed *private detective licenses. The commission shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

- (a) Be at least twenty-one years of age;
- (b) Possess a current *private detective license; and
- (c) Present a written request from the owner or qualifying agent of a licensed *private detective agency that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and administration of this section consistent with chapter 34.05 RCW. [1991 c 328 § 28.]

***Reviser's note:** "Private detective" redesignated "private investigator" by 1995 c 277.

43.101.260 Firearms certificate program for security guards. The commission shall establish a program for issuing firearms certificates to security guards for the purposes of obtaining armed security guard licenses. The commission shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

- (a) Be at least twenty-one years of age;
- (b) Possess a current private security guard license; and
- (c) Present a written request from the owner or qualifying agent of a licensed private security company that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and administration of this section consistent with chapter 34.05 RCW. [1991 c 334 § 29.]

43.101.270 Sexual assault—Training for investigating and prosecuting. (1) Each year the criminal justice training commission shall offer an intensive, integrated training session on investigating and prosecuting sexual assault cases. The training shall place particular emphasis on the development of professionalism and sensitivity towards the victim and the victim's family.

(2) The commission shall seek advice from the Washington association of prosecuting attorneys, the Washington defender association, the Washington association of sheriffs and police chiefs, and the Washington coalition of sexual assault programs.

(3) The training shall be an integrated approach to sexual assault cases so that prosecutors, law enforcement, defenders, and victim advocates can all benefit from the training.

(4) The training shall be self-supporting through fees charged to the participants of the training.

(5) The training shall include a reference to the possibility that a court may allow children under the age of fourteen to testify in a room outside the presence of the defendant and the jury pursuant to RCW 9A.44.150. [2015 c 286 § 2; 1991 c 267 § 2.]

Findings—Intent—2015 c 286: "(1) The legislature finds that RCW 9A.44.150, which allows testimony of child victims by closed-circuit television in certain cases, helps protect certain child witnesses. During the prosecution of many child abuse cases, child victims may suffer serious emotional and mental trauma from exposure to the abuser. Some of these child victims are unable to testify at all in the presence of the abuser. For these reasons, the legislature found it a compelling state interest to allow for remote testimony in certain cases to enhance the truth-seeking process and to shield child victims from trauma.

(2) The legislature further finds that while there is a possibility for certain child victims to testify remotely in some cases, this procedure is rarely used. The legislature intends to raise awareness regarding this procedure by including it in training materials for investigating and prosecuting sexual assault cases." [2015 c 286 § 1.]

Findings—1991 c 267: "The safety of all children is enhanced when sexual assault cases are properly investigated and prosecuted. The victim of the sexual assault and the victim's family have a right to be treated with sensitivity and professionalism, which also increases the likelihood of their continued cooperation with the investigation and prosecution of the case. The legislature finds the sexual assault cases, particularly those involving victims who are children, are difficult to prosecute successfully. The cooperation of a victim and the victim's family through the investigation and prosecution of the sexual assault case is enhanced and the trauma associated with the investigation and prosecution is reduced when trained victim advocates assist the

victim and the victim's family through the investigation and prosecution of the case. Trained victim advocates also assist law enforcement, prosecutors, and defense attorneys, by relieving some of the burden of explaining the investigation and prosecution process and possible delays to the victim and accompanying the victim during interviews by the police, prosecutor, and defense attorney, and accompanying the victim during hearings and the trial.

The legislature finds that counties should give priority to the successful prosecution of sexual assault cases, especially those that involve children, by ensuring that prosecutors, investigators, defense attorneys, and victim advocates are properly trained and available. Therefore, the legislature intends to establish a mechanism to provide the necessary training of prosecutors, law enforcement investigators, defense attorneys, and victim advocates and ensure the availability of victim advocates for victims of sexual assault and their families." [1991 c 267 § 1.]

Additional notes found at www.leg.wa.gov

43.101.272 Sexual assault—Training for persons investigating adult sexual assault. (1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault cases involving adult victims. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

(2) The training must: Be based on research-based practices and standards; offer participants an opportunity to practice interview skills and receive feedback from instructors; minimize the trauma of all persons who are interviewed during abuse investigations; provide methods of reducing the number of investigative interviews necessary whenever possible; assure, to the extent possible, that investigative interviews are thorough, objective, and complete; recognize needs of special populations; recognize the nature and consequences of victimization; require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; address record retention and retrieval; address documentation of investigative interviews; and educate investigators on the best practices for notifying victims of the results of forensic analysis of sexual assault kits and other significant events in the investigative process, including for active investigations and cold cases.

(3) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault and the neurobiology of trauma. The commission shall consult with the Washington association of prosecuting attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with sexual assault victims in the criminal justice system.

(4) The commission shall develop the training and begin offering it by July 1, 2018. Officers assigned to regularly investigate sexual assault involving adult victims shall complete the training within one year of being assigned or by July 1, 2020, whichever is later. [2019 c 93 § 5; 2017 c 290 § 3.]

43.101.274 Sexual assault—Training curriculum modification. Subject to the availability of amounts appropriated for this specific purpose, the commission shall incorporate victim-centered, trauma-informed approaches to

policing in the basic law enforcement training curriculum. In modifying the curriculum, the commission shall seek advice from the Washington coalition of sexual assault programs and other experts on sexual assault and the neurobiology of trauma. [2017 c 290 § 4.]

43.101.276 Sexual assault—Training curriculum requirements. (1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall develop training on a victim-centered, trauma-informed approach to interacting with victims and responding to sexual assault calls. The curriculum must: Be designed for commissioned patrol officers not regularly assigned to investigate sexual assault cases; be designed for deployment and use within individual law enforcement agencies; include features allowing for it to be used in different environments, which may include multimedia or video components; allow for law enforcement agencies to host it in small segments at different times over several days or weeks, including roll calls. The training must include components on available resources for victims including, but not limited to, material on and references to community-based victim advocates.

(2) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault and the neurobiology of trauma.

(3) Beginning in 2018, all law enforcement agencies shall annually host the training for commissioned peace officers. All law enforcement agencies shall, to the extent feasible, consult with and feature local community-based victim advocates during the training. [2017 c 290 § 5.]

43.101.278 Sexual assault—Development of proposal for case review program. (1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall conduct an annual case review program. The program must review case files from law enforcement agencies and prosecuting attorneys selected by the commission in order to identify changes to training and investigatory practices necessary to optimize outcomes in sexual assault investigations and prosecutions involving adult victims. The program must include:

(a) An evaluation of whether current training and practices foster a trauma-informed, victim-centered approach to victim interviews and that identifies best practices and current gaps in training and assesses the integration of the community resiliency model;

(b) A comparison of cases involving investigators and interviewers who have participated in training to cases involving investigators and interviewers who have not participated in training;

(c) Randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating sexual assault cases and interacting with survivors; and

(d) An analysis of the impact that race and ethnicity have on sexual assault case outcomes.

(2) The case review program may review and access files, including all reports and recordings, pertaining to closed cases involving allegations of adult sexual assault

only. Any law enforcement agency or prosecuting attorney selected for the program by the commission shall make requested case files and other documents available to the commission, provided that the case files are not linked to ongoing, open investigations and that redactions may be made where appropriate and necessary. Agencies and prosecuting attorneys shall include available information on the race and ethnicity of all sexual assault victims in the relevant case files provided to the commission. Case files and other documents must be made available to the commission according to appropriate deadlines established by the commission in consultation with the agency or prosecuting attorney.

(3) If a law enforcement agency has not participated in the training under RCW 43.101.272 by July 1, 2022, the commission may prioritize the agency for selection to participate in the program under this section.

(4) In designing and conducting the program, the commission shall consult and collaborate with experts in trauma-informed and victim-centered training, experts in sexual assault investigations and prosecutions, victim advocates, and other stakeholders identified by the commission. The commission may form a multidisciplinary working group for the purpose of carrying out the requirements of this section.

(5) The commission shall submit a report with a summary of its work to the governor and the appropriate committees of the legislature by December 1st of each year. [2021 c 118 § 3; 2020 c 26 § 8.]

Effective date—2021 c 118: See note following RCW 5.70.060.

Intent—2020 c 26: See note following RCW 63.21.090.

43.101.280 Ethnic and cultural diversity—Development of curriculum for understanding—Training. The criminal justice training commission shall develop, in consultation with the administrative office of the courts and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be developed by October 1, 1993. The commission shall ensure that ethnic and diversity training becomes an integral part of the training of law enforcement personnel so as to incorporate cultural sensitivity and awareness into the daily activities of law enforcement personnel. [2005 c 282 § 46; 1993 c 415 § 4.]

Intent—1993 c 415: See note following RCW 2.56.030.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030.

43.101.290 Training regarding hate crime offenses. The criminal justice training commission shall provide training for law enforcement officers in identifying, responding to, and reporting all violations of RCW 9A.36.080 and any other crimes of bigotry or bias. [1993 c 127 § 5.]

Additional notes found at www.leg.wa.gov

43.101.300 Juvenile runaways—Policy manual. The criminal justice training commission shall ensure that every law enforcement agency in the state has an accurate and up-to-date policy manual describing the statutes relating to juvenile runaways. [1994 sp.s. c 7 § 509.]

[Title 43 RCW—page 588]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

43.101.350 Core training requirements. (1) All law enforcement personnel initially hired to, transferred to, or promoted to a supervisory or management position on or after January 1, 1999, and all corrections personnel of the state and all counties and municipal corporations transferred or promoted to a supervisory or management position on or after January 1, 1982, shall, within the first six months of entry into the position, successfully complete the core training requirements prescribed by rule of the commission for the position, or obtain a waiver or extension of the core training requirements from the commission.

(2) Within one year after completion of the core training requirements of this section, all law enforcement personnel and corrections personnel shall successfully complete all remaining requirements for career level certification prescribed by rule of the commission applicable to their position or rank, or obtain a waiver or extension of the career level training requirements from the commission.

(3) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for attendees who do not live within fifty miles of the training center. The training shall be delivered in the least disruptive manner to local law enforcement or corrections agencies, and will include but not be limited to regional on-site training, interactive training, and credit for training given by the home department.

(4) Nothing in this section affects or impairs the employment status of an employee whose employer does not provide the opportunity to engage in the required training. [2007 c 382 § 2; 1997 c 351 § 10.]

Additional notes found at www.leg.wa.gov

43.101.360 Report to the legislature. By January 1st of every odd-numbered year, the commission shall provide a written report to the legislature addressing the following items: (1) Status and satisfaction of service to its clients; (2) detailed analysis of how it will maintain and update adequate state-of-the-art training models and their delivery in the most cost-effective and efficient manner; and (3) fiscal data projecting its current and future funding requirements. [1997 c 351 § 11.]

Additional notes found at www.leg.wa.gov

43.101.365 Child abuse and neglect—Development of curriculum. (1) The commission, in consultation with the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys, shall develop a curriculum related to child abuse and neglect to be included in the basic law enforcement training that must be successfully completed within the first fifteen months of employment of all law enforcement personnel.

(2) The curriculum must be incorporated into the basic law enforcement training program by July 1, 2008. [2007 c 410 § 4.]

Additional notes found at www.leg.wa.gov

43.101.370 Child abuse and neglect—Intensive training. Each year the criminal justice training commission shall offer an intensive training session on investigation of child abuse and neglect. The training shall focus on the investigative duties of law enforcement established under chapter 26.44 RCW with particular emphasis placed on child interview techniques to increase the accuracy of statements taken from children and decrease the need for additional interviews. [1997 c 351 § 12.]

Additional notes found at www.leg.wa.gov

43.101.380 Hearings—Panel membership—Standard of proof—Appeals—Judicial review. (1) The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern hearings before the commission and govern all other actions before the commission unless otherwise provided in this chapter. The standard of proof in actions before the commission is a preponderance of the evidence.

(2) In all hearings requested under RCW 43.101.155, an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, shall make all necessary rulings in the course of the hearing, and shall issue a proposed recommendation, but is not entitled to vote. In addition, a five-member hearings panel shall hear the case and make the commission's final administrative decision.

(3) The commission shall appoint a panel to hear certification actions as follows:

(a) When a hearing is requested in relation to a certification action of a Washington peace officer, the commission shall appoint to the panel: (i) One police chief or sheriff from an agency not a current or past employer of the peace officer; (ii) one certified Washington peace officer who is at or below the level of first line supervisor and who has at least ten years' experience as a peace officer; (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

(b) When a hearing is requested in relation to a certification action of a Washington corrections officer, the commission shall appoint to the panel: (i) A person who heads either a city or county corrections agency or facility or of a Washington state department of corrections facility; (ii) one corrections officer who is at or below the level of first line supervisor and who has at least ten years' experience as a corrections officer; (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

(c) When a hearing is requested in relation to a certification action of a tribal police officer, the commission shall appoint to the panel (i) one tribal police chief; (ii) one tribal police officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; (iii) one civilian member of the commission as

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appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

(d) Persons appointed to hearings panels by the commission shall, in relation to any certification action on which they sit, have the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular commission members.

(4) In decertification matters where there was a due process hearing or a disciplinary appeals hearing following an investigation by a law enforcement agency, or a criminal hearing regarding the alleged misconduct, the hearings panel need not redetermine the underlying facts but may make its determination based solely on review of the records and decision relating to those proceedings and any investigative or summary materials from the administrative law judge, legal counsel, and commission staff. However, the hearings panel may, in its discretion, consider additional evidence to determine whether misconduct occurred. The hearings panel shall, upon written request by the subject peace officer or corrections officer, allow the peace officer or corrections officer to present additional evidence of extenuating circumstances.

(5) The commission is authorized to proceed regardless of whether an arbitrator or other appellate decision maker overturns the discipline imposed by the officer's employing agency or whether the agency settles an appeal. No action or failure to act by a law enforcement agency or corrections agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certificate, to place on probation, or to require remedial training for the officer.

(6) The hearings, but not the deliberations of the hearings panel, are open to the public. The transcripts, admitted evidence, and written decisions of the hearings panel on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.

(7) Summary records of hearing dispositions must be made available on an annual basis on a public website.

(8) The commission's final administrative decision is subject to judicial review under RCW 34.05.510 through 34.05.598. [2021 c 323 § 20; 2020 c 119 § 10; 2010 1st sp.s. c 7 § 14; 2009 c 25 § 1; 2006 c 22 § 3; 2001 c 167 § 10.]

Additional notes found at www.leg.wa.gov

43.101.390 Immunity of commission. (1) The commission and individuals acting on behalf of the commission are immune from suit in any civil or criminal action contesting or based upon proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter.

(2) Without limiting the generality of the foregoing, the commission and individuals acting on behalf of the commission are immune from suit in any civil action based on the certification, denial of certification, suspension, or other action regarding decertification of peace officers, reserve

officers, or corrections officers. [2021 c 323 § 16; 2001 c 167 § 11.]

43.101.400 Confidentiality of records—Public database. (1) Except as provided under subsection (2) of this section, all files, papers, and other information obtained by the commission as part of an initial background investigation pursuant to RCW 43.101.095 (2) and (4) are confidential and exempt from public disclosure. Such records are not subject to public disclosure, subpoena, or discovery proceedings in any civil action, except as provided in RCW 43.101.380(6) or which become part of the record in a suspension or decertification matter.

(2) Records which are otherwise confidential and exempt under subsection (1) of this section may be reviewed and copied: (a) By the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional exculpatory or explanatory evidence, statements, or other information, any of which must be included in the file; (b) by a duly authorized representative of (i) the agency of termination, or (ii) a current employing law enforcement or corrections agency, which may review and copy its employee-officer's file; or (c) by a representative of or investigator for the commission.

(3) Records which are otherwise confidential and exempt under subsection (1) of this section may also be inspected at the offices of the commission by a duly authorized representative of a law enforcement or corrections agency considering an application for employment by a person who is the subject of a record. A copy of records which are otherwise confidential and exempt under subsection (1) of this section may later be obtained by an agency after it hires the applicant. In all other cases under this subsection, the agency may not obtain a copy of the record.

(4) The commission shall maintain a database that is publicly searchable, machine readable, and exportable, and accompanied by a complete, plain-language data dictionary describing the names of officers and employing agencies, all conduct investigated, certifications denied, notices and accompanying information provided by law enforcement or correctional agencies, including the reasons for separation from the agency, decertification or suspension actions pursued, and final disposition and the reasons therefor for at least 30 years after final disposition of each incident. The dates for each material step of the process must be included. Any decertification must be reported to the national decertification index.

(5) Every individual, legal entity, and agency of federal, state, or local government is immune from civil liability, whether direct or derivative, for providing information to the commission in good faith. [2021 c 323 § 21; 2020 c 119 § 12; 2001 c 167 § 12.]

43.101.410 Racial profiling—Policies—Training—Complaint review process—Data collection and reporting. (1) Local law enforcement agencies shall comply with the recommendations of the Washington association of sheriffs and police chiefs regarding racial profiling, as set forth under (a) through (f) of this subsection. Local law enforcement agencies shall:

(a) Adopt a written policy designed to condemn and prevent racial profiling;

(b) Review and audit their existing procedures, practices, and training to ensure that they do not enable or foster the practice of racial profiling;

(c) Continue training to address the issues related to racial profiling. Officers should be trained in how to better interact with persons they stop so that legitimate police actions are not misperceived as racial profiling;

(d) Ensure that they have in place a citizen complaint review process that can adequately address instances of racial profiling. The process must be accessible to citizens and must be fair. Officers found to be engaged in racial profiling must be held accountable through the appropriate disciplinary procedures within each department;

(e) Work with the minority groups in their community to appropriately address the issue of racial profiling; and

(f) Within fiscal constraints, collect demographic data on traffic stops and analyze that data to ensure that racial profiling is not occurring.

(2) The Washington association of sheriffs and police chiefs shall coordinate with the criminal justice training commission to ensure that issues related to racial profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers at all levels.

(3) Local law enforcement agencies shall report all information required under this section to the Washington association of sheriffs and police chiefs. [2002 c 14 § 2.]

Declaration—Findings—2002 c 14: "(1) The legislature declares that racial profiling is the illegal use of race or ethnicity as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without a legal basis under the United States Constitution or Washington state Constitution.

(2) The legislature recognizes that the president of the United States has issued an executive order stating that stopping or searching individuals on the basis of race is not an effective law enforcement policy, that it is inconsistent with democratic ideals, especially the commitment to equal protection under the law for all persons, and that it is neither legitimate nor defensible as a strategy for public protection. The order also instructs the law enforcement agencies within the departments of justice, treasury, and interior to collect race, ethnicity, and gender data on the people they stop or arrest.

(3) The legislature finds that the Washington state patrol has been in the process of collecting data on traffic stops and analyzing the data to determine if the patrol has any areas in its enforcement of traffic laws where minorities are being treated in a discriminatory manner. The legislature further finds that the Washington association of sheriffs and police chiefs has recently passed a resolution condemning racial profiling and has reaffirmed local law enforcement agencies' commitment to ensuring the public safety and the protection of civil liberties for all persons. The association also restated its goal of implementing policing procedures that are fair, equitable, and constitutional." [2002 c 14 § 1.]

43.101.415 Racial profiling—Reports to the legislature. The Washington association of sheriffs and police chiefs, in cooperation with the criminal justice training commission, shall report to the legislature by December 31, 2002, and each December 31st thereafter, on the progress and accomplishments of each local law enforcement agency in the state in meeting the requirements and goals set forth in RCW 43.101.410. [2002 c 14 § 3.]

Declaration—Findings—2002 c 14: See note following RCW 43.101.410.

43.101.419 Motorcycle profiling. (1) The criminal justice training commission shall ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered to in-service law enforcement officers in conjunction with existing training regarding profiling.

(2) Local law enforcement agencies shall add a statement condemning motorcycle profiling to existing policies regarding profiling.

(3) For the purposes of this section, "motorcycle profiling" means the illegal use of the fact that a person rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without a legal basis under the United States Constitution or Washington state Constitution. [2011 c 49 § 1.]

43.101.420 Personal crisis recognition and crisis intervention services—Training. (1) The commission shall offer a training session on personal crisis recognition and crisis intervention services to criminal justice, corrections, and other public safety employees. The training shall be implemented by the commission in consultation with appropriate public and private organizations that have expertise in crisis referral services and in the underlying conditions leading to the need for crisis referral.

(2) The training shall consist of a minimum of one hour of classroom or internet instruction, and shall include instruction on the following subjects:

(a) The description and underlying causes of problems that may have an impact on the personal and professional lives of public safety employees, including mental health issues, chemical dependency, domestic violence, financial problems, and other personal crises;

(b) Techniques by which public safety employees may recognize the conditions listed in (a) of this subsection and understand the need to seek assistance and obtain a referral for consultation and possible treatment; and

(c) A listing of examples of public and private crisis referral agencies available to public safety employees.

(3) The training developed by the commission shall be made available by the commission to all employees of state and local agencies that perform public safety duties. The commission may charge a reasonable fee to defer the cost of making the training available. [2021 c 323 § 17; 2009 c 19 § 1.]

43.101.425 Communications to crisis referral services—Confidentiality of communications and records.

(1) All communications to crisis referral services by employees and volunteers of law enforcement, correctional, fire-fighting, and emergency services agencies, and all records related to the communications, shall be confidential. Crisis referral services include all public or private organizations that advise employees and volunteers of such agencies about sources of consultation and treatment for personal problems including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises.

(2) A crisis referral service may reveal information related to crisis referral services to prevent reasonably certain

death, substantial bodily harm, or commission of a crime. [2009 c 19 § 2.]

43.101.427 Crisis intervention training—Rules. (1) The commission shall provide crisis intervention training to every new full-time law enforcement officer employed after July 1, 2017, by a general authority Washington law enforcement agency. The training shall consist of not less than eight hours and shall be incorporated into the basic training academy as provided in RCW 43.101.200.

(2) The commission must ensure that:

(a) All full-time, general authority Washington peace officers who are certified after July 1, 2017, complete a two-hour online crisis intervention course as part of the annual training required by the commission for all full-time, general authority Washington peace officers employed by a general authority Washington law enforcement agency.

(b) Each full-time general authority Washington peace officer certified before July 1, 2017, receives crisis intervention training by July 1, 2021. The training shall consist of not less than eight hours and shall be substantially similar in hours and content to the training offered through the basic training academy. Each attendee of the program shall be required to obtain written proof of completion of the program as provided by rules of the commission.

(3) The commission shall make efforts to provide enhanced crisis intervention training for at least twenty-five percent of all full-time, general authority Washington peace officers assigned to patrol duties. The enhanced training may be (a) comprised of forty hours of commission-certified training and (b) accomplished within any funds remaining after appropriation is made for purposes of this section.

(4) By July 1, 2017, the commission shall establish by rule:

(a) A program and standards to certify organizations, other than the commission, that may provide crisis intervention training as required under this section. Certified organizations must use a commission-certified training or curriculum to facilitate the training. The commission shall consider geographic training needs when considering programs and standards. The commission shall provide grants to general authority Washington law enforcement agencies to reimburse those law enforcement agencies for the cost of sending officers to crisis intervention training;

(b) Standards for successful completion of the annual two hours of crisis intervention training as provided in subsection (2) of this section. The standards shall include, at a minimum, the requirement of successful completion of a written exam.

(5) For the purposes of this section, "crisis intervention training" means training designed to provide tools and resources to full-time, general authority Washington peace officers in order to respond effectively to individuals who may be experiencing an emotional, mental, physical, behavioral, or chemical dependency crisis, distress, or problem and that are designed to increase the safety of both law enforcement and individuals in crisis.

(6) This section is subject to the availability of amounts appropriated for this specific purpose. [2015 c 87 § 1.]

Short title—2015 c 87: "This act may be known and cited as the Douglas M. Ostling act." [2015 c 87 § 2.]

43.101.430 Criminal justice training commission firing range maintenance account. The criminal justice training commission firing range maintenance account is created in the custody of the state treasurer. All moneys generated by the rental of the commission's firing range facilities, property, and equipment must be deposited into the account. The sources of the moneys generated and deposited under this section may include federal, state, local, or private grants, consistent with RCW 43.101.190. Expenditures from the account may be used only for cost related to rental, maintenance, or development of the commission's firing range facilities, property, and equipment. Only the executive director, acting on behalf of the criminal justice training commission, or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2013 c 265 § 1.]

43.101.435 Washington internet crimes against children account. The Washington internet crimes against children account is created in the custody of the state treasurer. All receipts from legislative appropriations, donations, gifts, grants, and funds from federal or private sources must be deposited into the account. Expenditures from the account must be used exclusively by the Washington internet crimes against children task force and its affiliate agencies for combating internet-facilitated crimes against children, promoting education on internet safety to the public and to minors, and rescuing child victims from abuse and exploitation. Only the criminal justice training commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The commission may enter into agreements with the Washington association of sheriffs and police chiefs to administer grants and other activities funded by the account and be paid an administrative fee not to exceed three percent of expenditures. During the 2019-2021 and 2021-2023 fiscal biennia, moneys in the account may be used by the Washington state patrol for activities related to the missing and exploited children task force. [2022 c 297 § 958; 2019 c 415 § 971; 2015 c 84 § 2.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Findings—Intent—2015 c 84: "(1) The legislature finds that the internet crimes against children task force program, through the United States department of justice, helps state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and internet crimes against children. This help encompasses forensic and investigative components, training and technical assistance, victim services, and community education. The program is a national network of sixty-one coordinated task forces representing over three thousand five hundred federal, state, and local law enforcement and prosecutorial agencies. In 2013, the program's investigations contributed to the arrests of more than seven thousand four hundred individuals and task forces conducted over sixty thousand forensic examinations. Additionally, the program trained over thirty thousand law enforcement personnel, over three thousand five hundred prosecutors, and more than five thousand three hundred other professionals working in the program's field.

(2) The legislature finds that there is a lack of dedicated state resources to combat internet-facilitated crimes against children. As a result, many of the cases involving internet-facilitated crimes are not adequately investigated. The legislature further finds that a minimum of fifteen full-time affiliate investigators and three forensic examiners are currently needed to just investigate the very worst of these cases in Washington. It is the intent of the

legislature to create an account dedicated to combating internet-facilitated crimes against children, promoting education on internet safety to the public and to minors, and rescuing child victims from abuse and exploitation." [2015 c 84 § 1.]

43.101.440 Testimony of children under age fourteen—Remote testimony—Number of child sexual abuse cases referred for prosecution and number prosecuted—Annual survey—Reports to the legislature. The criminal justice training commission shall annually survey law enforcement and prosecuting agencies regarding, with respect to the preceding year: (1) The frequency of cases where children under the age of fourteen have elected not to testify, including the reasons for the election not to testify; (2) the number of cases where remote testimony pursuant to RCW 9A.44.150 was used and whether those cases resulted in conviction; and (3) the total number of child sexual abuse cases referred for prosecution and the number of those cases that were prosecuted. The results of the survey described in this section must be reported every other year to the appropriate committees of the legislature with an initial reporting date of December 1, 2015. [2015 c 286 § 3.]

Findings—Intent—2015 c 286: See note following RCW 43.101.270.

43.101.450 Violence de-escalation training. (1) Beginning one year after December 6, 2018, all law enforcement officers in the state of Washington must receive violence de-escalation training. Law enforcement officers beginning employment after December 6, 2018, must successfully complete such training within the first 15 months of employment. The commission shall set the date by which other law enforcement officers must successfully complete such training.

(2) All law enforcement officers shall periodically receive continuing violence de-escalation training to practice their skills, update their knowledge and training, and learn about new legal requirements and violence de-escalation strategies.

(3) The commission shall set training requirements through the procedures in RCW 43.101.455.

(4) Violence de-escalation training provided under this section must be consistent with RCW 10.120.020 and the model policies established by the attorney general under RCW 10.120.030.

(5) The commission shall submit a report to the legislature and the governor by January 1st and July 1st of each year on the implementation of and compliance with subsections (1) and (2) of this section. The report must include data on compliance by agencies and officers. The report may also include recommendations for any changes to laws and policies necessary to improve compliance with subsections (1) and (2) of this section. [2021 c 324 § 6; 2019 c 1 § 3 (Initiative Measure No. 940); (2018 c 11 § 3 (Initiative Measure No. 940) repealed by 2019 c 4 § 8).]

Intent—2021 c 324: See note following RCW 10.120.010.

Short title—2019 c 1 (Initiative Measure No. 940): "This act may be known and cited as the law enforcement training and community safety act." [2019 c 1 § 1 (Initiative Measure No. 940); (2018 c 11 § 1 (Initiative Measure No. 940) repealed by 2019 c 4 § 8).]

Intent—2019 c 1 (Initiative Measure No. 940): "The intent of the people in enacting this act is to make our communities safer. This is accomplished by requiring law enforcement officers to obtain violence de-escalation and mental health training, so that officers will have greater skills to

resolve conflicts without the use of physical or deadly force. Law enforcement officers will receive first aid training and be required to render first aid, which will save lives and be a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts. Finally, the initiative adopts a "good faith" standard for officer criminal liability in those exceptional circumstances where deadly force is used, so that officers using deadly force in carrying out their duties in good faith will not face prosecution." [2019 c 1 § 2 (Initiative Measure No. 940); (2018 c 11 § 2 (Initiative Measure No. 940) repealed by 2019 c 4 § 8).]

Liberal construction—2019 c 1 (Initiative Measure No. 940): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act. Nothing in this act precludes local jurisdictions or law enforcement agencies from enacting additional training requirements or requiring law enforcement officers to provide first aid in more circumstances than required by this act or guidelines adopted under this act." [2019 c 1 § 8 (Initiative Measure No. 940); (2018 c 11 § 8 (Initiative Measure No. 940) repealed by 2019 c 4 § 8).]

Subject—2019 c 1 (Initiative Measure No. 940): "For constitutional purposes, the subject of this act is "law enforcement."" [2019 c 1 § 11 (Initiative Measure No. 940); (2018 c 11 § 11 (Initiative Measure No. 940) repealed by 2019 c 4 § 8).]

Rule making—2019 c 4; 2019 c 1 (Initiative Measure No. 940): See note following RCW 43.101.455.

43.101.452 Mental health training. (1) Beginning one year after *December 6, 2018, all law enforcement officers in the state of Washington must receive mental health training. Law enforcement officers beginning employment after *December 6, 2018, must successfully complete such training within the first fifteen months of employment. The commission shall set the date by which other law enforcement officers must successfully complete such training.

(2) All law enforcement officers shall periodically receive continuing mental health training to update their knowledge about mental health issues and associated legal requirements, and to update and practice skills for interacting with people with mental health issues.

(3) The commission shall set training requirements through the procedures in RCW 43.101.455. [2019 c 1 § 4 (Initiative Measure No. 940); (2018 c 11 § 4 (Initiative Measure No. 940) repealed by 2019 c 4 § 8).]

***Reviser's note:** "December 6, 2018" has been substituted for "the effective date of this section." The effective date of 2018 c 11 was June 7, 2018, and the effective date of 2019 c 1 was December 6, 2018. See *Eyman v. Wyman*, 191 Wn.2d 581, 424 P.3d 1183 (2018).

Short title—Intent—Liberal construction—Subject—2019 c 1 (Initiative Measure No. 940): See notes following RCW 43.101.450.

Rule making—2019 c 4; 2019 c 1 (Initiative Measure No. 940): See note following RCW 43.101.455.

43.101.455 Violence de-escalation and mental health training—Adoption of rules—Training requirements. (1) Within six months after December 6, 2018, the commission must consult with law enforcement agencies and community stakeholders and adopt rules for carrying out the training requirements of RCW 43.101.450 and 43.101.452. Such rules must, at a minimum:

(a) Adopt training hour requirements and curriculum for initial violence de-escalation trainings required by chapter 1, Laws of 2019;

(b) Adopt training hour requirements and curriculum for initial mental health trainings required by chapter 1, Laws of 2019, which may include all or part of the mental health training curricula established under RCW 43.101.227 and 43.101.427;

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(c) Adopt annual training hour requirements and curricula for continuing trainings required by chapter 1, Laws of 2019;

(d) Establish means by which law enforcement officers will receive trainings required by chapter 1, Laws of 2019; and

(e) Require compliance with chapter 1, Laws of 2019 training requirements.

(2) In developing curricula, the commission shall consider inclusion of the following:

(a) De-escalation in patrol tactics and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence;

(b) Alternatives to jail booking, arrest, or citation in situations where appropriate;

(c) Implicit and explicit bias, cultural competency, and the historical intersection of race and policing;

(d) Skills including de-escalation techniques to effectively, safely, and respectfully interact with people with disabilities and/or behavioral health issues;

(e) "Shoot/don't shoot" scenario training;

(f) Alternatives to the use of physical or deadly force so that de-escalation tactics and less lethal alternatives are part of the decision-making process leading up to the consideration of deadly force;

(g) Mental health and policing, including bias and stigma; and

(h) Using public service, including rendering of first aid, to provide a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts.

(3) The initial violence de-escalation training must educate officers on the good faith standard for use of deadly force established by chapter 1, Laws of 2019 and how that standard advances violence de-escalation goals.

(4) The commission may provide trainings, alone or in partnership with private parties or law enforcement agencies, authorize private parties or law enforcement agencies to provide trainings, or any combination thereof. The entity providing the training may charge a reasonable fee. [2019 c 4 § 1. Prior: 2019 c 1 § 5 (Initiative Measure No. 940); (2018 c 11 § 5 (Initiative Measure No. 940) repealed by 2019 c 4 § 8); (2018 c 10 § 1 repealed by 2019 c 4 § 8).]

Effective date—2019 c 4: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 4, 2019]." [2019 c 4 § 10.]

Rule making—2019 c 4; 2019 c 1 (Initiative Measure No. 940): "(1) Except where a different timeline is provided in chapter 1, Laws of 2019, the Washington state criminal justice training commission must adopt any rules necessary for carrying out the requirements of chapter 1, Laws of 2019 within one year after December 6, 2018. In carrying out all rule making under chapter 1, Laws of 2019, the commission shall seek input from the attorney general, law enforcement agencies, the Washington council of police and sheriffs, the Washington state fraternal order of police, the council of metropolitan police and sheriffs, the Washington state patrol troopers association, at least one association representing law enforcement who represent traditionally underrepresented communities including the black law enforcement association of Washington, tribes, and community stakeholders. The commission shall consider the use of negotiated rule making.

(2) Where chapter 1, Laws of 2019 requires involvement of community stakeholders, input must be sought from organizations advocating for: Persons with disabilities; members of the lesbian, gay, bisexual, transgender,

and queer community; persons of color; immigrants; noncitizens; native Americans; youth; and formerly incarcerated persons." [2019 c 4 § 4; 2019 c 1 § 9 (Initiative Measure No. 940); (2018 c 11 § 9 (Initiative Measure No. 940) repealed by 2019 c 4 § 8); (2018 c 10 § 4 repealed by 2019 c 4 § 8).]

Short title—Intent—Liberal construction—Subject—2019 c 1 (Initiative Measure No. 940): See notes following RCW 43.101.450.

43.101.460 Audits—Deadly force investigations. (1) The office of the Washington state auditor is authorized to conduct a process compliance audit procedure and review of any deadly force investigation conducted pursuant to RCW 10.114.011. At the conclusion of every deadly force investigation, the state auditor shall determine whether the actions of the involved law enforcement agency, investigative body, and prosecutor's office are in compliance with RCW 10.114.011, chapter 43.102 RCW, and all rules adopted pursuant to these provisions for the investigation and reporting of incidents involving the use of deadly force. A deadly force investigation is concluded once the involved prosecutor's office makes a charging decision and any resulting criminal case reaches disposition. Audit procedures under this section shall be conducted in cooperation with the commission.

(2) The state auditor may not conduct an audit under this section until adequately staffed with subject matter expertise regarding law enforcement and investigative audits. Until that time, the state auditor shall contract with persons with the appropriate subject matter expertise and shall issue a request for proposal for contracting with a person or entity to provide adequate subject matter expertise. [2021 c 319 § 1.]

43.101.465 Audits—Law enforcement agency training and certification requirements. Upon the request of the commission, the office of the Washington state auditor is authorized to conduct an audit procedure on any law enforcement agency to ensure the agency is in compliance with all laws, policies, and procedures governing the training and certification of peace officers employed by the agency. A copy of any completed audit must be sent to the commission, law enforcement agency, city or county council, county prosecutor, and relevant committees of the legislature. [2021 c 319 § 2.]

43.101.470 Audits—Costs and fees. A law enforcement agency shall not pay any costs or fees for an audit conducted pursuant to RCW 43.101.460 or 43.101.465. [2021 c 319 § 3.]

43.101.480 Medicolegal forensic investigation training required for coroners and medical examiners—Exceptions. (1)(a) All elected coroners, appointed coroners, persons serving as coroners, medical examiners, and all other full-time medicolegal investigative personnel employed by a county coroner's or medical examiner's office must successfully complete medicolegal forensic investigation training through the medicolegal training academy program within 12 months of being elected, appointed, or employed unless otherwise exempted by the commission. This section does not apply to elected prosecutors who are coroners in their counties.

(b) All part-time medicolegal investigative personnel employed by a county coroner's or medical examiner's office must successfully complete medicolegal forensic investiga-

tion training through the medicolegal training academy program within 18 months of being employed unless otherwise exempted by the commission.

(2) The commission, in conjunction with the Washington association of coroners and medical examiners and a practicing physician selected by the commission, shall develop the medicolegal forensic investigation training curriculum and adopt the standards for the medicolegal training academy and any exemption from the requirement to complete the medicolegal forensic investigation training. The commission shall exempt from this requirement any coroner, medical examiner, or medicolegal investigative personnel who has obtained training comparable to the medicolegal forensic investigation training by virtue of educational or professional training or experience.

(3) The commission must certify successful completion of the medicolegal forensic investigation training or exemption from the medicolegal training requirement within 60 days from the receipt of proof of completion or request for exemption.

(4) The medicolegal forensic investigation training required under this section must:

(a) Meet the recommendations of the national commission on forensic science for certification and accreditation; and

(b) Satisfy the requirements for training on the subject of sudden, unexplained child death including, but not limited to, sudden infant death syndrome developed pursuant to RCW 43.103.100 and missing persons protocols pursuant to RCW 43.103.110.

(5) Certification under this section is a condition of continued employment in a coroner's or medical examiner's office.

(6) A county in which a coroner, person serving as coroner, medical examiner, or other medicolegal investigative employee, who has not otherwise been exempted by the commission, is not certified within 12 months of being elected, appointed, or employed as required by this section, may have its reimbursement from the death investigations account reduced as provided under RCW 68.50.104 until the office is in compliance with all requirements under this section. [2021 c 127 § 3.]

43.101.490 Basic training. The basic training provided to criminal justice personnel by the commission must be consistent with the standards in RCW 10.120.020 and the model policies established by the attorney general under RCW 10.120.030. [2021 c 324 § 5.]

Intent—2021 c 324: See note following RCW 10.120.010.

43.101.495 Written model policy—Duty to intervene. (1) By December 1, 2021, the Washington state criminal justice training commission, in consultation with the Washington state patrol, the Washington association of sheriffs and police chiefs, and organizations representing state and local law enforcement officers, shall develop a written model policy on the duty to intervene, consistent with the provisions of RCW 10.93.190.

(2) By June 1, 2022, every state, county, and municipal law enforcement agency shall adopt and implement a written duty to intervene policy. The policy adopted may be the

model policy developed under subsection (1) of this section. However, any policy adopted must, at a minimum, be consistent with the provisions of RCW 10.93.190.

(3) By January 31, 2022, the commission shall incorporate training on the duty to intervene in the basic law enforcement training curriculum. Peace officers who completed basic law enforcement training prior to January 31, 2022, must receive training on the duty to intervene by December 31, 2023. [2021 c 321 § 2.]

43.101.800 Critical incident stress management programs—Expansion—Report. (Expires January 1, 2023.)

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall conduct outreach and coordinate with local law enforcement agencies, fire departments, and other first responder service providers for the purpose of expanding critical incident stress management programs to law enforcement personnel, firefighters, and other first responders statewide. The commission shall conduct an inventory of the current critical incident stress management programs in the state, including an assessment of underserved agencies and regions. The commission shall coordinate with law enforcement agencies, law enforcement organizations, community partners, fire departments, and other first response service organizations to provide greater access to critical incident stress management programs, including peer support group counselors under RCW 5.60.060, and may further assist agencies with establishing interagency and regional service agreements to facilitate expansion of these programs.

(2) The commission shall submit a preliminary report by July 1, 2021, and submit a final report, including a summary of the inventory and efforts to expand programs, by July 1, 2022, to the governor and the appropriate committees of the legislature.

(3) This section expires January 1, 2023. [2020 c 294 § 1.]

43.101.801 Development of policies, procedures, and rules—2021 c 323. The commission must develop policies, procedures, and rules to ensure that the goals of chapter 323, Laws of 2021 are fully implemented as intended and in a timely manner, and to provide appropriate clarity to affected persons and entities as to how the commission will process complaints, investigations, and hearings, and impose sanctions, related to officer decertification. The commission must work in collaboration with interested parties and entities in developing the policies, procedures, and rules, and must take into account issues regarding when and how the commission may appropriately exercise authority in relation to simultaneous investigations and disciplinary processes, and how the commission may exercise available remedies in a manner that is appropriate to case circumstances and consistent with the goals of chapter 323, Laws of 2021. The policies, procedures, and rules must be completed by June 30, 2022. [2021 c 323 § 22.]

43.101.901 Transfer of conference center. The legislature authorizes the *department of general administration to transfer the Washington state training and conference center

located at 19010 First Avenue, Burien, Washington, 98148, to the criminal justice training commission. [2001 c 166 § 2.]

*Reviser's note: The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 § 107.

43.101.902 Effective date—2001 c 167. This act takes effect January 1, 2002. [2001 c 167 § 14.]

Chapter 43.102 RCW

OFFICE OF INDEPENDENT INVESTIGATIONS

Sections

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43.102.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory board" means the office of independent investigations advisory board.

(2) "Deadly force" has the meaning provided in RCW 9A.16.010.

(3) "Director" means the director of the office of independent investigations.

(4) "Great bodily harm" has the meaning provided in RCW 9A.04.110.

(5) "In-custody" refers to a person who is under the physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(6) "Independent investigation team" means a team of qualified and certified peace officer investigators, civilian crime scene specialists, and other representatives who operate independently of any involved agency to conduct investigations of police deadly force incidents. An independent investigation team may be comprised of multiple law enforcement agencies who jointly investigate police use of force incidents in their geographical regions or may be a single law enforcement agency, provided it is not the involved agency.

(7) "Involved agency" means a general authority Washington law enforcement agency or limited authority Washington law enforcement agency, as defined in RCW 10.93.020, that employs or supervises the officer or officers who are an involved officer as defined in this section, or an agency responsible for a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention

facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(8) "Involved officer" means one of the following persons who is involved in an incident as an actor or custodial officer in which the act or omission by the individual is within the scope of the jurisdiction of the office as defined in this chapter:

(a) A general authority Washington peace officer, specially commissioned Washington peace officer, or limited authority Washington peace officer, as defined in RCW 10.93.020, whether on or off duty if he or she is exercising his or her authority as a peace officer; or

(b) An individual while employed in a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(9) "Office" means the office of independent investigations.

(10) "Substantial bodily harm" has the same meaning as in RCW 9A.04.110. [2021 c 318 § 201.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.020 Creation. (1) The office of independent investigations is hereby established within the office of the governor for the purpose of conducting fair, thorough, transparent, and competent investigations as authorized under this chapter.

(2) The office of independent investigations is an investigative law enforcement agency, including for the purposes of the public records act, chapter 42.56 RCW. [2021 c 318 § 301.]

Finding—Intent—2021 c 318: "The legislature finds that there has been an outpouring of frustration, anger, and demand for change from many members of the public over the deaths of people of color resulting from encounters with police. The most recent deaths in the United States and within Washington are a call to lead our state to a new system for investigating deaths and other serious incidents involving law enforcement officers.

The legislature intends that the office of independent investigations be created to conduct investigations of use of force and other cases under its jurisdiction in a manner that is competent, unbiased, and thorough. The office will be transparent and accountable for its work. The office should ensure that it treats all people with dignity and respect. The director and staff must be qualified and trained to conduct the investigations, including training to understand the impact and effect of racism in the investigation and use of an antiracist lens to conduct their work.

It is intended that this office will assume responsibility for investigations of serious use of force incidents and refer the reports on the investigation to the prosecutorial entity to determine if the action was justified, or if there was criminal action such that criminal charges should be filed. This is the same criminal investigative inquiry that is currently conducted when there is an officer-involved incident. The legislature does not intend to create a new type of investigation or that the office should be involved in any administrative review of conduct or complaints to police agencies about officer conduct related to policy or procedure. The process created in this act is intended to change only who investigates the incident. It does not change the nature of the investigation and involves only an investigation to determine justification or whether criminal charges are appropriate." [2021 c 318 § 101.]

43.102.030 Powers and duties. In addition to other responsibilities set forth in this chapter, the office shall:

(1) Conduct fair, thorough, transparent, and competent investigations of police use of force and other incidents involving law enforcement as authorized in this chapter and shall prioritize investigations conducted by the office based on resources and other criteria developed in consultation with

the advisory board. The office shall commence investigations as follows:

(a) Beginning no later than July 1, 2022, the office is authorized to conduct investigations of deadly force cases occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; and

(b) Beginning no later than July 1, 2023, the office is authorized to review, and may investigate, prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation;

(2) Analyze data available to the office and provide reports and recommendations as appropriate based on the data regarding issues, trends, and other relevant areas;

(3) Provide reports on activities of the office as authorized under this chapter; and

(4) Carry out such other responsibilities as may be consistent with this chapter. [2021 c 318 § 302.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.040 Director. (1)(a) The governor shall appoint the director of the office and determine the director's compensation. The governor shall select the director from a list of three candidates recommended by the advisory board unless the governor declines to select any of the candidates provided. If the governor declines to select a candidate proposed by the advisory board, the governor may request the advisory board to provide additional qualified nominees for consideration or may offer an alternative candidate who may be appointed following approval by a majority of the advisory board.

(b) Prior to selecting the director, the governor shall consider the results of a background check, including an assessment of criminal history, and research of social media and affiliations to check for racial bias and conflicts of interest.

(2) The director shall hold office for a term of three years and continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the director prior to the expiration of the director's term for neglect of duty, misconduct, or inability to perform duties. [2021 c 318 § 303.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.050 Director—Duties—Review of prior investigations. (1) The director shall:

(a) Oversee the duties and functions of the office and investigations conducted by the office pursuant to this chapter;

(b) Hire or contract with investigators and other personnel as the director considers necessary to perform investigations conducted by the office, and other duties as required, under this chapter;

(c) Plan and provide trainings for office personnel, including contracted investigators, that promote recognition of and respect for, the diverse races, ethnicities, and cultures of the state;

(d) Plan and provide training for advisory board members including training to utilize an antiracist lens in their duties as advisory board members;

(e) Publish reports of investigations conducted under this chapter;

(f) Enter into contracts and memoranda of understanding as necessary to implement the responsibilities of the office under this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Develop the nondisclosure agreement required in RCW 43.102.130; and

(i) Perform the duties and exercise the powers that are set out in this chapter, as well as any additional duties and powers that may be prescribed.

(2) No later than February 1, 2022, in consultation with the advisory board, the director shall develop a plan to implement:

(a) Regional investigation teams and a system for promptly responding to incidents of deadly force under the jurisdiction of the office. The regional investigation teams should:

(i) Allow for prompt response to the incident requiring investigation; and

(ii) Include positions for team members who are not required to be designated as limited authority Washington peace officers;

(b) A system and requirements for involved agencies to notify the office of any incident under the jurisdiction of the office, which must include direction to agencies as to what incidents of force and injuries and other circumstances must be reported to the office, including the timing of such reports, provided that any incident involving substantial bodily harm, great bodily harm, or death is reported to the office immediately in accordance with RCW 43.102.120;

(c) The process to conduct investigations of cases under the jurisdiction of the office including, but not limited to:

(i) The office intake process following notification of an incident by an involved agency;

(ii) The assessment and response to the notification of the incident by the office, including direction to and coordination with the independent investigation team;

(iii) Determination and deployment of necessary resources for the regional investigation teams to conduct the investigations;

(iv) Determination of any conflicts with office investigators or others involved in the investigation to ensure no investigator has an existing conflict with an assigned case;

(v) Protocol and direction to the involved agency;

(vi) Protocol and direction to the independent investigation team;

(vii) Protocol and guidelines for contacts and engagement with the involved agency; and

(viii) Protocol for finalizing the completed investigation and referral to the entity responsible for the prosecutorial decision, including communication with the family and public regarding the completion of the investigation;

(d) A plan for the office's interaction, communications, and responsibilities to: The involved officer; the individual who is the subject of the action by the involved officer that is the basis of the case under investigation, and their families; the public; and other interested parties or stakeholders. The plan must consider the following:

(i) A process for consultation, notifications, and communications with the person, family, or representative of any person who is the subject of the action by the involved officer that is the basis of the case under investigation;

(ii) Translation services which may be utilized through employees or contracted services;

(iii) Support to access assistance or services to the extent possible; and

(iv) A process for situations in which a tribal member is involved in the case that ensures consultation with the federally recognized tribe, and notification of the governor's office of Indian affairs within 24 hours in cases of deadly use of force;

(e) Training for employees and contractors of the office to begin prior to July 1, 2022; and

(f) Prioritization of cases for investigation.

(3) No later than December 1, 2023, in consultation with the advisory board, the director shall develop a proposal for training individuals who are nonlaw enforcement officers to conduct competent, thorough investigations of cases under the jurisdiction of the office. The proposal must establish a training plan with an objective that within five years of the date the office begins investigating deadly force cases the cases will be investigated by nonlaw enforcement officers. The director shall report such proposal to the governor and legislature by December 1, 2023. Any proposal offered by the director must ensure investigations are high quality, thorough, and competent.

(4) The director, in consultation with the advisory board, shall implement a plan to review prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation and investigate if determined appropriate based on the review. The director must prioritize the review or investigation of cases occurring prior to July 1, 2022, based on resources and other cases under investigation with the office. [2021 c 318 § 304.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.060 Personnel. (1) The director may employ, or enter into contracts with, personnel as he or she determines necessary for the proper discharge of his or her duties. The director must request input from the advisory board on the hiring process and hiring goals, including diversity.

(2) The director may employ, or enter into contracts with, investigators to conduct investigations of cases under the jurisdiction of the office.

(a) The director shall consider the relevant experience and qualifications of the candidate including the extent to which he or she demonstrates experience or understanding of the following areas:

(i) Extensive experience with criminal investigations, including homicide investigations;

(ii) Behavioral health issues;

(iii) Youth cognitive development;

(iv) Trauma-informed interviewing;

(v) De-escalation techniques and utilization; and

(vi) Knowledge of Washington practices, including laws, policies, and procedures related to criminal law, criminal investigations, and policing.

(b) The director shall consider the following prior to employing an investigator:

(i) The investigators should not be commissioned law enforcement officers employed with any law enforcement agency as a peace officer at the time of application with the office.

(A) If the individual considered for a position as an investigator was a prior law enforcement officer, the director must conduct a review of prior disciplinary actions or complaints related to bias.

(B) The individual should not have been a commissioned law enforcement officer within 24 months of the date of the application for service as an investigator; and

(ii) The results of a background check that includes research of social media and affiliations to check for racial bias and conflicts of interest.

(c) Investigators employed or contracted with the office are prohibited from being simultaneously employed, commissioned, or have any business relationship, other than through the work of the office, with a general authority or limited authority Washington law enforcement agency, or county or city corrections agency.

(d) The director may not employ an individual who was a previously commissioned law enforcement officer who does not meet the criteria of this section without the approval of a majority of the advisory board.

(3) The director may employ or enter into contracts for services to provide additional personnel as needed to conduct investigations of cases under the jurisdiction of the office including, but not limited to, the following:

(a) Forensic services and crime scene investigators;

(b) Liaisons for community, family, and relations with a federally recognized tribe;

(c) Analysts, including analysts to conduct evaluations on use of force data;

(d) Mental health experts;

(e) Bilingual staff, translators, or interpreters;

(f) Other experts as needed; and

(g) All staffing and other needs for the office.

(4) The director shall ensure the following training is provided to staff and that there is a regular schedule for additional trainings during the course of employment:

(a) The director shall ensure that the director and staff involved in investigations, including any contracted investigators, engage in trainings that include the following areas. A training may include more than one of the following areas per training. A separate training course is not required for each topic.

(i) History of racism in policing, including tribal sovereignty and history of Native Americans within the justice system;

(ii) Implicit and explicit bias training;

(iii) Intercultural competency;

(iv) The use of a racial equity lens in conducting the work of the office;

(v) Antiracism training; and

(vi) Undoing institutional racism.

(b) The director shall ensure that investigators engage in the following training. A training may include more than one of the following areas per training. A separate training course is not required for each topic.

(i) Criminal investigations, including homicide investigations as appropriate for the assigned positions;

(ii) Washington practices, including Washington laws and policies, as well as relevant policing practices as appropriate;

(iii) Interviewing techniques; and

(iv) Other relevant trainings as needed. [2021 c 318 § 305.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.070 Investigators. (1) The director shall designate investigator positions that are limited authority Washington peace officers as defined in RCW 10.93.020. The investigators designated as limited authority Washington peace officers have the authority to investigate any case within the jurisdiction of the office and any criminal activity related to, or discovered in the course of, the investigation of the case under the jurisdiction of the incident that has a relationship to the investigation.

(2) Any investigator employed or contracted with the office for the purpose of conducting investigations may participate in the investigations of a case under the jurisdiction of the office. Only investigators who are limited authority Washington peace officers may be designated a lead investigator on any criminal investigation conducted by the office pursuant to this chapter. [2021 c 318 § 306.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.080 Investigations—Duties and powers. (1) The office has jurisdiction over, and is authorized to conduct investigations of, all cases and incidents as established within this section.

(2)(a) The director may cause an investigation to be conducted into any incident:

(i) Of a use of deadly force by an involved officer occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; or

(ii) Involving prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation.

(b) This section applies only if, at the time of the incident:

(i) The involved officer was on duty; or

(ii) The involved officer was off duty but:

(A) Engaged in the investigation, pursuit, detention, or arrest of a person or otherwise exercising the powers of a general authority or limited authority Washington peace officer; or

(B) The incident involved equipment or other property issued to the official in relation to his or her duties.

(3) The director shall determine prioritization of investigations based on resources and other criteria which may be established in consultation with the advisory board. The director shall ensure that incidents occurring after the date the office begins investigating cases receive the highest priority for investigation.

(4) The investigation should include a review of the entire incident, including but not limited to events immediately preceding the incident that may have contributed to or

influenced the outcome of the incident that are directly related to the incident under investigation.

(5) Upon receiving notification required in RCW 43.102.120 of an incident under the jurisdiction of the office, the director:

(a) May cause the incident to be investigated in accordance with this chapter;

(b) May determine investigation is not appropriate for reasons including, but not limited to, the case not being in the category of prioritized cases; or

(c) If the director determines that the incident is not within the office's jurisdiction to investigate, the director shall decline to investigate, and shall give notice of the fact to the involved agency.

(6) If the director determines the case is to be investigated the director will communicate the decision to investigate to the involved agency and will thereafter be the lead investigative body in the case and have priority over any other state or local agency investigating the incident or a case that is under the jurisdiction of the office. The director will implement the process developed pursuant to RCW 43.102.050 and conduct the appropriate investigation in accordance with the process.

(7) In conducting the investigation the office shall have access to reports and information necessary or related to the investigation in the custody and control of the involved agency and any law enforcement agency responding to the scene of the incident including, but not limited to, voice or video recordings, body camera recordings, and officer notes, as well as disciplinary and administrative records except those that might be statements conducted as part of an administrative investigation related to the incident.

(8) The investigation shall be concluded within 120 days of acceptance of the case for investigation. If the office is not able to complete the investigation within 120 days, the director shall report to the advisory board the reasons for the delay. [2021 c 318 § 308.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.090 Criminal justice training commission—Collaboration—Trainings. (1) The criminal justice training commission shall collaborate with the office to ensure office investigators receive sufficient training to attain the necessary requirements to conduct investigations under the jurisdiction of the office.

(2) The investigators of the office shall receive priority registration to criminal justice training commission trainings necessary to conduct investigations as required by this chapter. [2021 c 318 § 309.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.100 Analysis of data—Reports. The office will conduct analysis of use of force and other data to the extent such data is available to the office. The director is authorized to enter into contracts or memoranda of understanding to access data as needed. If data is available, the office should, at a minimum, analyze and report annually: Analysis and research regarding any identified trends, patterns, or other situations identified by the data; and recommendations for improvements. After July 1, 2024, the office should also annually report recommendations, if any, for expanding the

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scope of investigations or jurisdiction of the office based on trends, data, or reports received by the agency. [2021 c 318 § 310.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.110 Liability. No action or other proceeding may be instituted against the director, an investigator, or an employee or contractor in the office or a person exercising powers or performing duties at the direction of the director for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty. [2021 c 318 § 311.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.120 Investigations—Notification of director—Securing the scene—Control by investigation team.

(1) Following notification by the director that the office will accept investigations of cases under its jurisdiction after July 1, 2022, an involved agency shall notify the office of any incident by an involved officer in accordance with the requirements under RCW 43.102.050 and pursuant to this section.

(a) If the incident involves use of deadly force by an involved officer that results in death, substantial bodily harm, or great bodily harm the involved agency must immediately contact the office pursuant to the procedure established by the director once the involved agency personnel and other first responders have rendered the scene safe and provided or facilitated lifesaving first aid to persons at the scene who have life-threatening injuries. This requirement does not affect the duty of law enforcement under RCW 36.28A.445.

(b) In all other cases, the involved agency must notify the office of the incident pursuant to the procedure established by the director.

(2)(a) In any case that requires notice to the director under this section, the involved agency shall ensure that any officers or employees over which the involved agency has authority who are at the scene of the incident take all lawful measures necessary for the purposes of protecting, obtaining, or preserving evidence relating to the incident until an office investigator, or independent investigation team at the request of the office, takes charge of the scene.

(b) The primary focus of the involved agency must be the protection and preservation of evidence in order to maintain the integrity of the scene until the office investigator or independent investigation team arrives or otherwise provides direction regarding activities at the scene. The involved agency should ensure that evidence, including but not limited to the following is protected and preserved:

(i) Physical evidence that is at risk of being destroyed or disappearing and cannot be easily reconstructed, including evidence which may be degraded or tainted by human or environmental factors if left unprotected or unpreserved;

(ii) Identification and contact information for witnesses to the incident; and

(iii) Photographs and other methods of documenting the location of physical evidence and location and perspective of witnesses.

(3)(a) When the office investigator, or independent investigation team acting at the request of the office, arrives

at the scene of an incident under the jurisdiction of the office, the involved agency will relinquish control of the scene to the office investigator or independent investigation team upon the request of the office investigator. The involved agency has a duty to comply with the requests of the office related to the investigation conducted pursuant to this chapter.

(b) Once the scene is relinquished, no member of the involved agency may participate in any way in the investigation, with the exception of the use of specialized equipment that is necessary for the investigation and where no alternative exists. If there is any equipment of the involved agency used in the investigation, steps must be taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment or their engagement with the investigation.

(4) If an independent investigation team takes control of the scene at the request of the office, the independent investigation team shall relinquish control of the scene and investigation at the request of the office when the office is on the scene or otherwise provides notice that the office is taking control of the scene. The independent investigation team may continue to engage in the investigation conducted at the scene if requested to do so by the lead office investigator, director, or the director's designee. The involvement of the independent investigation team is limited to activities requested by the office and must terminate following the securing of the scene and any evidence preservation or other actions as determined necessary by the office at the scene. The independent investigation team may not continue to participate in the ongoing investigation.

(5) No information about the ongoing independent investigation under the jurisdiction of the office may be shared with any member of the involved agency, except limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation.

(6) If the office declines to investigate a case, the authority and duty to investigate remains with the independent investigation team or local law enforcement authority with jurisdiction over the incident. [2021 c 318 § 402.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.130 Office of independent investigations advisory board. (1)(a) There is created the office of independent investigations advisory board. The advisory board shall consist of the following 11 members, appointed by the governor, one of whom the governor shall designate as chair:

(i) Three members of the general public representing the community who are not current or former law enforcement, with preference given to individuals representing diverse communities;

(ii) One member of the general public representing a family impacted by an incident of the nature under the jurisdiction of the office, who is not current or former law enforcement;

(iii) One member representing a federally recognized tribe in Washington, who is not current or former law enforcement;

(iv) One defense attorney representative;

(v) One prosecuting attorney representative;

(vi) One representative of a police officer labor association with experience in homicide investigations;

(vii) One sheriff or police chief who is also a member of an independent investigation team;

(viii) One credentialed mental health expert who is not current or former law enforcement; and

(ix) One member of the criminal justice training commission.

(b) The members of the advisory board appointed by the governor shall be appointed for terms of three years and until their successors are appointed and confirmed. The governor shall stagger the initial appointment terms of the advisory board members with the terms of five members being for two years from the date of appointment and six members being for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board serve without compensation, but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(c) The governor, when making appointments to the advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(2) The purpose of the advisory board is to provide input to the office and shall:

(a) Provide input to the governor on the selection of the director, including providing candidates for consideration for appointment for the position of director. If the governor requests additional candidates for consideration, the advisory board shall provide additional candidates to the governor. If the governor provides an alternative candidate, the advisory board must consider the candidate provided by the governor and vote on the approval or rejection of the candidate.

(i) The advisory board shall recommend candidates to the governor who they find are individuals with sound judgment, independence, objectivity, and integrity who will be viewed as a trustworthy director.

(ii) The director must have experience either in conducting criminal investigations or prosecutions. The advisory board shall consider the relevant experience and qualifications of the candidate including the extent to which they demonstrate experience or demonstrated understanding of the following areas:

(A) Criminal investigations;

(B) Organizational leadership;

(C) Mental health issues;

(D) Trauma-informed interviewing;

(E) Community leadership;

(F) Legal experience or background;

(G) Antioppression and antiracist analysis and addressing systemic inequities; and

(H) Working with black, indigenous, and communities of color;

(b) Provide input to the director on the plans required to be developed for the office including the regional investigation teams; staffing; training for personnel; procedures for engagement with individuals involved in any case under the jurisdiction of the office, as well as families and the community; recommendations to the legislature; and other input as requested by the governor or director;

(c) Participate in employment interviews as requested by the governor or director; and

(d) Receive briefings or reports from the director relating to data, trends, and other relevant issues, as well as cases under investigation to the extent permitted by law.

(3) Advisory board members have a duty to maintain the confidentiality of the information they receive during the course of their work on the advisory board. Each advisory board member shall agree in writing to not disclose any information they receive or otherwise access related to an investigation, including information about individuals involved in the investigation as involved officers, individuals who are the subject of police action, witnesses, and investigators.

(4) Advisory board members must complete training to utilize an antiracist lens in their duties as advisory board members.

(5) The office shall provide administrative and clerical assistance to the advisory board. [2021 c 318 § 501.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

43.102.800 Assessment of jurisdiction of office—Report. (Expires July 1, 2024.) (1) In consultation with the director, the advisory board shall assess whether the jurisdiction of the office should be expanded to conduct investigations of other types of incidents committed by involved officers, including but not limited to other types of in-custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as sexual assaults committed by involved officers, subject to the same standard under RCW 43.102.080(2)(b). The advisory board must consider available data and information on other types of in custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as other types of incidents, the capacity and resources of the office, and any modifications or additions to procedures and processes necessary for the office to conduct investigations of those incidents. The advisory board must consider the recommendations and counsel of the director when conducting the assessment under this section.

(2) At the request of the advisory board, the office shall conduct analysis of available data, including identified trends and patterns, and other information relevant to in-custody deaths involving criminal acts committed by involved officers, sexual assaults committed by involved officers, and other types of incidents as requested by the advisory board.

(3) The advisory board shall submit a report with related recommendations to the legislature and governor by November 1, 2023.

(4) For the purposes of this section, "in-custody death" means a death of an individual while under physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(5) This section expires July 1, 2024. [2021 c 318 § 502.]

Finding—Intent—2021 c 318: See note following RCW 43.102.020.

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Chapter 43.103 RCW WASHINGTON STATE FORENSIC INVESTIGATIONS COUNCIL

Sections

43.103.010	Purposes.
43.103.020	Definitions.
43.103.030	Council created—Powers and duties.
43.103.040	Membership of council—Appointment.
43.103.050	Terms of members—Vacancies.
43.103.060	Qualification for continued membership.
43.103.070	Chair—Quorum—Meetings.
43.103.080	Travel expenses.
43.103.090	Powers.
43.103.100	Sudden infant death syndrome—Training—Protocols.
43.103.110	Training modules for missing persons protocols.
43.103.901	Effective date—1983 1st ex.s. c 16.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

43.103.010 Purposes. The purposes of chapter 16, Laws of 1983 1st ex. sess. are declared by the legislature to be as follows:

(1) To preserve and enhance the state crime laboratory and state toxicology laboratory, which are essential parts of the criminal justice and death investigation systems in the state of Washington;

(2) To fund the death investigation system and to make related state and local institutions more efficient;

(3) To provide resources necessary for the performance, by qualified pathologists, of autopsies which are also essential to the criminal justice and death investigation systems of this state and its counties;

(4) To improve the performance of death investigations and the criminal justice system through the formal training of county coroners and county medical examiners;

(5) To establish and maintain a dental identification system; and

(6) To provide flexibility so that any county may establish a county morgue when it serves the public interest. [1999 c 40 § 2; 1995 c 398 § 2; 1983 1st ex.s. c 16 § 1.]

Additional notes found at www.leg.wa.gov

43.103.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the Washington state forensic investigations council.

(2) "Crime laboratory" means the Washington state patrol crime laboratory system created in RCW 43.43.670 and under the bureau of forensic laboratory services of the Washington state patrol.

(3) "State toxicology laboratory" means the Washington state toxicology laboratory and under the bureau of forensic laboratory services of the Washington state patrol. [1999 c 40 § 3; 1995 c 398 § 3; 1983 1st ex.s. c 16 § 2.]

Additional notes found at www.leg.wa.gov

43.103.030 Council created—Powers and duties. There is created the Washington state forensic investigations council. The council shall oversee the bureau of forensic laboratory services and, in consultation with the chief of the Washington state patrol or the chief's designee, control the operation and establish policies of the bureau of forensic lab-

oratory services. The council may also study and recommend cost-efficient improvements to the death investigation system in Washington and report its findings to the legislature.

The forensic investigations council shall be responsible for the oversight of any state forensic pathology program authorized by the legislature.

The forensic investigations council shall be actively involved in the preparation of the bureau of forensic laboratory services budget and shall approve the bureau of forensic laboratory services budget prior to its formal submission to the office of financial management pursuant to RCW 43.88.030. [2005 c 166 § 2; 1999 c 40 § 4; 1995 c 398 § 4; 1991 c 176 § 2; 1983 1st ex.s. c 16 § 3.]

Additional notes found at www.leg.wa.gov

43.103.040 Membership of council—Appointment.

The council shall consist of thirteen members who shall be selected as follows: One county coroner; one county prosecutor; one county prosecutor who also serves as ex officio county coroner; one county medical examiner; one county sheriff; one chief of police; the chief of the state patrol; two members of a county legislative authority; one pathologist who is currently in private practice; two members of a city legislative authority; and one attorney whose practice of law includes significant experience representing clients charged with criminal offenses.

The governor shall appoint members to the council from among the nominees submitted for each position as follows: The Washington association of county officials shall submit two nominees each for the coroner position and the medical examiner position; the Washington state association of counties shall submit two nominees each for the two county legislative authority positions; the association of Washington cities shall submit two nominees each for the two city legislative authority positions; the Washington association of prosecuting attorneys shall submit two nominees each for the county prosecutor-ex officio county coroner and for the county prosecutor position; the Washington association of sheriffs and police chiefs shall submit two nominees each for the county sheriff position and the chief of police position; the Washington association of pathologists shall submit two nominees for the private pathologist position; and the Washington association of criminal defense lawyers and the Washington defender association shall jointly submit two nominees for the criminal defense attorney position, one of whom must actively manage or have significant experience in managing a public or private criminal defense agency or association, the other must have experience in cases involving DNA or other forensic evidence. [2010 c 143 § 1; 1995 c 398 § 5; 1983 1st ex.s. c 16 § 4.]

43.103.050 Terms of members—Vacancies. All members of the council are appointed for terms of four years, commencing on July 1 and expiring on June 30. However, of the members appointed to the council, five shall be appointed for two-year terms and six shall be appointed for four-year terms. A person chosen to fill a vacancy created other than by the natural expiration of a member's term shall be nominated and appointed as provided in RCW 43.103.040 for the unexpired term of the member he or she is to succeed. Any mem-

ber may be reappointed for additional terms. [1995 c 398 § 6; 1983 1st ex.s. c 16 § 5.]

43.103.060 Qualification for continued membership.

Any member of the council shall immediately cease to be a member if he or she ceases to hold the particular office or employment which was the basis of his or her appointment under RCW 43.103.040. [1983 1st ex.s. c 16 § 6.]

43.103.070 Chair—Quorum—Meetings. The council shall elect a chair and a vice chair from among its members. The chair shall not vote except in case of a tie vote. Seven members of the council shall constitute a quorum. The governor shall summon the council to its first meeting. Otherwise, meetings may be called by the chair and shall be called by him or her upon the written request of five members of the council. Conference calls by telephone are a proper form of meeting. [1995 c 398 § 7; 1983 1st ex.s. c 16 § 7.]

43.103.080 Travel expenses. (1) Members of the council shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(2) Attendance at meetings of the council shall constitute performance by a councilmember of the duties of his or her employment or office. [1983 1st ex.s. c 16 § 8.]

43.103.090 Powers. (1) The council may:

(a) Meet at such times and places as may be designated by a majority vote of the councilmembers or, if a majority cannot agree, by the chair;

(b) Adopt rules governing the council and the conduct of its meetings;

(c) Require reports from the chief of the Washington state patrol on matters pertaining to the bureau of forensic laboratory services;

(d) Authorize the expenditure of up to two hundred fifty thousand dollars per biennium from the council's death investigations account appropriation for the purpose of assisting local jurisdictions in the investigation of multiple deaths involving unanticipated, extraordinary, and catastrophic events, or involving multiple jurisdictions. The council shall adopt rules consistent with this subsection for the purposes of authorizing expenditure of the funds;

(e) Authorize the expenditure of up to twenty-five thousand dollars per biennium from the council's death investigations account appropriation for the purpose of assisting local jurisdictions to secure forensic anthropology services or other testing, to determine the identity of human remains upon a showing of financial need. The council shall adopt rules consistent with this subsection for the purposes of authorizing expenditure of the funds;

(f) Authorize expenditures from the council's death investigations account appropriation for the purpose of funding a statewide case management system for coroners and medical examiners. The council shall confer with the state association of coroners and medical examiners in the selection of a statewide system. The council may adopt rules consistent with this subsection for the purposes of authorizing expenditure of the funds;

(g) Do anything, necessary or convenient, which enables the council to perform its duties and to exercise its powers; and

(h) Be actively involved in the preparation of the bureau of forensic laboratory services budget and approve the bureau of forensic laboratory services budget prior to formal submission to the office of financial management pursuant to RCW 43.88.030.

(2) The council shall:

(a) Prescribe qualifications for the position of director of the bureau of forensic laboratory services, after consulting with the chief of the Washington state patrol. The council shall submit to the chief of the Washington state patrol a list containing the names of up to three persons who the council believes meet its qualifications to serve as director of the bureau of forensic laboratory services. Minimum qualifications for the director of the bureau of forensic laboratory services must include successful completion of a background investigation and polygraph examination. If requested by the chief of the Washington state patrol, the forensic investigations council shall submit one additional list of up to three persons who the forensic investigations council believes meet its qualifications. The appointment must be from one of the lists of persons submitted by the forensic investigations council, and the director of the bureau of forensic laboratory services shall report to the office of the chief of the Washington state patrol;

(b) After consulting with the chief of the Washington state patrol and the director of the bureau of forensic laboratory services, the council shall appoint a toxicologist as state toxicologist, who shall report to the director of the bureau of forensic laboratory services. The appointee shall meet the minimum standards for employment with the Washington state patrol including successful completion of a background investigation and polygraph examination;

(c) Establish, after consulting with the chief of the Washington state patrol, the policies, objectives, and priorities of the bureau of forensic laboratory services, to be implemented and administered within constraints established by budgeted resources by the director of the bureau of forensic laboratory services;

(d) Set the salary for the director of the bureau of forensic laboratory services; and

(e) Set the salary for the state toxicologist. [2017 c 146 § 1; 2007 c 200 § 1. Prior: 1999 c 142 § 1; 1999 c 40 § 5; 1995 c 398 § 8; 1983 1st ex.s. c 16 § 9.]

Additional notes found at www.leg.wa.gov

43.103.100 Sudden infant death syndrome—Training—Protocols. (1) The council shall research and develop an appropriate training component on the subject of sudden, unexplained child death, including but not limited to sudden infant death syndrome. The training component shall include, at a minimum:

(a) Medical information on sudden, unexplained child death for first responders, including awareness and sensitivity in dealing with families and child care providers, and the importance of forensically competent death scene investigation;

(b) Information on community resources and support groups available to assist families who have lost a child to

sudden, unexplained death, including sudden infant death syndrome; and

(c) The value of timely communication between the county coroner or medical examiner and the public health department, when a sudden, unexplained child death occurs, in order to achieve a better understanding of such deaths, and connecting families to various community and public health support systems to enhance recovery from grief.

(2) The council shall work with volunteer groups with expertise in the area of sudden, unexplained child death, including but not limited to the SIDS foundation of Washington and the Washington association of county officials.

(3) Basic training for death investigators offered by the Washington association of coroners and medical examiners and the criminal justice training commission shall include a module which specifically addresses the investigations of the sudden unexplained deaths of children under the age of three. The training module shall include a scene investigation protocol endorsed or developed by the council. A similar training curriculum shall be required for city and county law enforcement officers and emergency medical personnel certified by the department of health as part of their basic training through the criminal justice training commission or the department of health emergency medical training certification program.

(4) Each county shall use a protocol that has been endorsed or developed by the council for scene investigations of the sudden unexplained deaths of children under the age of three. The council may utilize guidelines from the center for disease control and other appropriate resources.

(5) The council shall develop a protocol for autopsies of children under the age of three whose deaths are sudden and unexplained. This protocol shall be used by pathologists who are not certified by the American board of pathology in forensic pathology, and who are providing autopsy services to coroners and medical examiners. [2001 c 82 § 1; 1991 c 176 § 6.]

Finding—Declaration—1991 c 176: "The legislature finds and declares that sudden and unexplained child deaths are a leading cause of death for children under age three. The public interest is served by research and study of the potential causes and indications of such unexplained child deaths and the prevention of inaccurate and inappropriate designation of sudden infant death syndrome (SIDS) as a cause of death. The legislature further finds and declares that law enforcement officers, firefighters, emergency medical technicians, and other first responders in emergency situations are not adequately informed regarding sudden, unexplained death in young children including but not limited to sudden infant death syndrome, its signs and typical history, and as a result may compound the family and child care provider's grief through conveyed suspicions of a criminal act. Coroners, investigators, and prosecuting attorneys are also in need of updated training on the identification of unexplained death in children under the age of three, including but not limited to sudden infant death syndrome awareness and sensitivity and the establishment of a statewide uniform protocol in cases of sudden, unexplained child death." [1991 c 176 § 5.]

43.103.110 Training modules for missing persons protocols. The Washington state forensic investigations council, in cooperation with the Washington association of coroners and medical examiners and other interested agencies, shall develop training modules that are essential to the effective implementation and use of missing persons protocols using funds provided in RCW 43.79.445. The training commission shall make the training modules available to small departments or those at remote locations with the least

disruption. The modules shall include, but not be limited to: The reporting process, the use of forms and protocols, the effective use of resources, the collection and importance of evidence and preservation of biological evidence, and risk assessment of the individuals reported missing. [2007 c 10 § 2; 2006 c 102 § 3.]

Intent—2007 c 10: "It is the intent of this act to build upon the research and findings of the Washington state missing persons task force, assembled by the state attorney general in 2003, the United States department of justice, and the initiative taken in chapter 102, Laws of 2006, by the legislature to aid in recovery of missing persons and the identification of human remains." [2007 c 10 § 1.]

Finding—Intent—2006 c 102: See note following RCW 36.28A.100.

43.103.901 Effective date—1983 1st ex.s. c 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983. [1983 1st ex.s. c 16 § 24.]

Chapter 43.105 RCW CONSOLIDATED TECHNOLOGY SERVICES AGENCY

Sections

- 43.105.006 Consolidated technology services agency—Purpose.
- 43.105.007 Purpose.
- 43.105.020 Definitions.
- 43.105.025 Agency created—Appointment of director—Director's duties.
- 43.105.052 Powers and duties of agency.
- 43.105.054 Governing information technology—Standards and policies—Powers and duties of office.
- 43.105.057 Rule-making authority.
- 43.105.060 Contracts by state and local agencies with agency.
- 43.105.111 Performance targets—Plans for achieving goals—Quarterly reports to governor.
- 43.105.205 Office of the state chief information officer—Created—Powers, duties, and functions.
- 43.105.220 Strategic information technology plan—Biennial performance reports.
- 43.105.225 Managing information technology as a statewide portfolio.
- 43.105.230 State agency information technology portfolio—Basis for decisions and plans.
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- 43.105.240 Evaluation of agency information technology spending and budget requests.
- 43.105.245 Planning, implementation, and evaluation of major projects—Standards and policies.
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- 43.105.285 Technology services board—Created—Composition.
- 43.105.287 Technology services board—Powers and duties.
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- 43.105.341 Information technology portfolios.
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- 43.105.351 Electronic access to public records—Findings—Intent.
- 43.105.355 Electronic access to public records—Costs and fees.
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- 43.105.365 Accuracy, integrity, and privacy of records and information.
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- 43.105.385 Agency as central service provider for state agencies.
- 43.105.450 Office of cybersecurity—State chief information security officer—State agency information technology security.
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- 43.105.470 Office of cybersecurity—Major cybersecurity incidents—Reporting duties.

- 43.105.825 K-20 network—Oversight—Coordination of telecommunications planning.
- 43.105.904 Actions of telecommunications oversight and policy committee—Savings—1999 c 285.
- 43.105.905 Construction—2008 c 262.
- 43.105.906 Conflict with federal requirements—2009 c 509.
- 43.105.907 Transfer of certain powers, duties, and functions of the department of information services.

43.105.006 Consolidated technology services agency—Purpose. To achieve maximum benefit from advances in information technology the state establishes a centralized provider and procurer of certain information technology services as an agency to support the needs of state agencies. This agency shall be known as the consolidated technology services agency. To ensure maximum benefit to the state, state agencies shall rely on the consolidated technology services agency for those services with a business case of broad use, uniformity, scalability, and price sensitivity to aggregation and volume.

To successfully meet agency needs and meet its obligation as the primary service provider for these services, the consolidated technology services agency must offer high quality services at the lowest possible price. It must be able to attract an adaptable and competitive workforce, be authorized to procure services where the business case justifies it, and be accountable to its customers for the efficient and effective delivery of critical business services.

The consolidated technology services agency is established as an agency in state government. The agency is established with clear accountability to the agencies it serves and to the public. This accountability will come through enhanced transparency in the agency's operation and performance. The agency is also established with broad flexibility to adapt its operations and service catalog to address the needs of customer agencies, and to do so in the most cost-effective ways. [2011 1st sp.s. c 43 § 801.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.007 Purpose. Information technology is a tool used by state agencies to improve their ability to deliver public services efficiently and effectively. Advances in information technology, including advances in hardware, software, and business processes for implementing and managing these resources, offer new opportunities to improve the level of support provided to citizens and state agencies and to reduce the per-transaction cost of these services. These advances are one component in the process of reengineering how government delivers services to citizens.

To fully realize the service improvements and cost efficiency from the effective application of information technology to its business processes, state government must establish decision-making structures that connect business processes and information technology in an operating model. Many of these business practices transcend individual agency processes and should be worked at the enterprise level. To do this requires an effective partnership of executive management, business processes owners, and providers of support functions necessary to efficiently and effectively deliver services to citizens.

To maximize the potential for information technology to contribute to government business process reengineering, the

state must establish clear central authority to plan, set enterprise policies and standards, and provide project oversight and management analysis of the various aspects of a business process.

Establishing a state chief information officer as the director of the consolidated technology services agency will provide state government with the cohesive structure necessary to develop improved operating models with agency directors and reengineer business process to enhance service delivery while capturing savings.

To achieve maximum benefit from advances in information technology, the state establishes a centralized provider and procurer of certain information technology services as an agency to support the needs of public agencies. This agency shall be known as the consolidated technology services agency. To ensure maximum benefit to the state, state agencies shall rely on the consolidated technology services agency for those services with a business case of broad use, uniformity, scalability, and price sensitivity to aggregation and volume.

To successfully meet public agency needs and meet its obligation as the primary service provider for these services, the consolidated technology services agency must offer high quality services at the best value. It must be able to attract an adaptable and competitive workforce, be authorized to procure services where the business case justifies it, and be accountable to its customers for the efficient and effective delivery of critical business services.

The consolidated technology services agency is established with clear accountability to the agencies it serves and to the public. This accountability will come through enhanced transparency in the agency's operation and performance. The agency is also established with broad flexibility to adapt its operations and service catalog to address the needs of customer agencies, and to do so in the most cost-effective ways. [2015 3rd sp.s. c 1 § 101; 2011 1st sp.s. c 43 § 701. Formerly RCW 43.41A.003.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: "Sections 101 through 109, 201 through 224, 406 through 408, 410, 501 through 507, 601, and 602 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2015." [2015 3rd sp.s. c 1 § 604.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means the consolidated technology services agency.

(2) "Board" means the technology services board.

(3) "Cloud computing" has the same meaning as provided by the special publication 800-145 issued by the national institute of standards and technology of the United States department of commerce as of September 2011 or its successor publications.

(4) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from the consolidated technology services agency.

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(5) "Director" means the state chief information officer, who is the director of the consolidated technology services agency.

(6) "Enterprise architecture" means an ongoing activity for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

(7) "Equipment" means the machines, devices, and transmission facilities used in information processing, including but not limited to computers, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

(8) "Information" includes, but is not limited to, data, text, voice, and video.

(9) "Information security" means the protection of communication and information resources from unauthorized access, use, disclosure, disruption, modification, or destruction in order to:

(a) Prevent improper information modification or destruction;

(b) Preserve authorized restrictions on information access and disclosure;

(c) Ensure timely and reliable access to and use of information; and

(d) Maintain the confidentiality, integrity, and availability of information.

(10) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, radio technologies, and all related interactions between people and machines.

(11) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

(12) "K-20 network" means the network established in RCW 43.41.391.

(13) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

(14) "Office" means the office of the state chief information officer within the consolidated technology services agency.

(15) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

(16) "Proprietary software" means that software offered for sale or license.

(17) "Public agency" means any agency of this state or another state; any political subdivision or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any public benefit nonprofit corporation; any agency of the

United States; and any Indian tribe recognized as such by the federal government.

(18) "Public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03A.245 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state.

(19) "Public record" has the definitions in RCW 42.56.010 and chapter 40.14 RCW and includes legislative records and court records that are available for public inspection.

(20) "Public safety" refers to any entity or services that ensure the welfare and protection of the public.

(21) "Security incident" means an accidental or deliberative event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources.

(22) "State agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

(23) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines.

(24) "Utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, email, and other information technology services commonly used by state agencies. [2021 c 176 § 5223; 2021 c 40 § 2; 2017 c 92 § 2; 2016 c 237 § 2. Prior: 2015 3rd sp.s. c 1 § 102; 2011 1st sp.s. c 43 § 802; 2010 1st sp.s. c 7 § 64; prior: 2009 c 565 § 32; 2009 c 509 § 7; 2009 c 486 § 14; 2003 c 18 § 2; prior: 1999 c 285 § 1; 1999 c 80 § 1; 1993 c 280 § 78; 1990 c 208 § 3; 1987 c 504 § 3; 1973 1st ex.s. c 219 § 3; 1967 ex.s. c 115 § 2.]

Reviser's note: This section was amended by 2021 c 40 § 2 and by 2021 c 176 § 5223, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2021 c 176: See note following RCW 24.03A.005.

Findings—Intent—2021 c 40: See note following RCW 43.105.375.

Short title—2016 c 237: "This act may be known and cited as the cybersecurity jobs act of 2016." [2016 c 237 § 5.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

Conflict with federal requirements—Intent—2009 c 486: See notes following RCW 28B.30.530.

Intent—Finding—2003 c 18: "It is the intent of the legislature to ensure that the state's considerable investment in radio communications facilities, and the radio spectrum that is licensed to government entities in the state, are managed in a way that promotes to the maximum extent the health and safety of the state's citizens and the economic efficiencies of coordinated planning, development, management, maintenance, accountability, and performance. The legislature finds that such coordination is essential for disaster preparedness, emergency management, and public safety, and that such

coordination will result in more cost-effective use of state resources and improved government services." [2003 c 18 § 1.]

Additional notes found at www.leg.wa.gov

43.105.025 Agency created—Appointment of director—Director's duties. (1) There is created the consolidated technology services agency, an agency of state government. The agency shall be headed by a director, who is the state chief information officer. The director shall be appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. If a vacancy occurs in the position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(2) The director shall:

(a) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the agency; and

(b) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter in accordance with chapter 41.06 RCW, except as otherwise provided by law.

(3) The director may create such administrative structures as he or she deems appropriate and may delegate any power or duty vested in him or her by this chapter or other law.

(4) The director shall exercise all the powers and perform all the duties prescribed by law with respect to the administration of this chapter including:

(a) Reporting to the governor any matters relating to abuses and evasions of this chapter;

(b) Accepting and expending gifts and grants that are related to the purposes of this chapter;

(c) Applying for grants from public and private entities, and receiving and administering any grant funding received for the purpose and intent of this chapter; and

(d) Performing other duties as are necessary and consistent with law. [2015 3rd sp.s. c 1 § 103; 2011 1st sp.s. c 43 § 803; 1999 c 80 § 5; 1992 c 20 § 9; 1987 c 504 § 6. Formerly RCW 43.105.047.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Civil service exemptions: RCW 41.06.094.

Additional notes found at www.leg.wa.gov

43.105.052 Powers and duties of agency. The agency shall:

(1) Make available information services to public agencies and public benefit nonprofit corporations;

(2) Establish rates and fees for services provided by the agency;

(3) Develop a billing rate plan for a two-year period to coincide with the budgeting process. The rate plan must be subject to review at least annually by the office of financial management. The rate plan must show the proposed rates by each cost center and show the components of the rate structure as mutually determined by the agency and the office of financial management. The rate plan and any adjustments to

rates must be approved by the office of financial management;

(4) Develop a detailed business plan for any service or activity to be contracted under *RCW 41.06.142(7)(b);

(5) Develop plans for the agency's achievement of statewide goals and objectives set forth in the state strategic information technology plan required under RCW 43.105.220;

(6) Enable the standardization and consolidation of information technology infrastructure across all state agencies to support enterprise-based system development and improve and maintain service delivery; and

(7) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [2015 3rd sp.s. c 1 § 104; 2011 1st sp.s. c 43 § 804; 2010 1st sp.s. c 7 § 16; 2000 c 180 § 1; 1999 c 80 § 6; 1993 c 281 § 53; 1992 c 20 § 10; 1990 c 208 § 7; 1987 c 504 § 8.]

*Reviser's note: RCW 41.06.142 was amended by 2020 c 269 § 2, changing subsection (7) to subsection (11).

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.105.054 Governing information technology—Standards and policies—Powers and duties of office. (1) The director shall establish standards and policies to govern information technology in the state of Washington.

(2) The office shall have the following powers and duties related to information services:

(a) To develop statewide standards and policies governing the:

(i) Acquisition of equipment, software, and technology-related services;

(ii) Disposition of equipment;

(iii) Licensing of the radio spectrum by or on behalf of state agencies; and

(iv) Confidentiality of computerized data;

(b) To develop statewide and interagency technical policies, standards, and procedures;

(c) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services;

(d) With input from the legislature and the judiciary, to provide direction concerning strategic planning goals and objectives for the state;

(e) To establish policies for the periodic review by the director of state agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education;

(iii) Project management; and

(iv) Cybersecurity, in coordination with the office of cybersecurity;

(f) To coordinate with state agencies with an annual information technology expenditure that exceeds ten million dollars to implement a technology business management program to identify opportunities for savings and efficiencies in

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information technology expenditures and to monitor ongoing financial performance of technology investments;

(g) In conjunction with the consolidated technology services agency, to develop statewide standards for agency purchases of technology networking equipment and services;

(h) To implement a process for detecting, reporting, and responding to security incidents consistent with the information security standards, policies, and guidelines adopted by the director;

(i) To develop plans and procedures to ensure the continuity of commerce for information resources that support the operations and assets of state agencies in the event of a security incident; and

(j) To work with the office of cybersecurity, department of commerce, and other economic development stakeholders to facilitate the development of a strategy that includes key local, state, and federal assets that will create Washington as a national leader in cybersecurity. The office shall collaborate with, including but not limited to, community colleges, universities, the national guard, the department of defense, the department of energy, and national laboratories to develop the strategy.

(3) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The office shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems; and

(b) Require agencies to include an evaluation of electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the office is encouraged to include the state library, state archives, and appropriate representatives of state and local government. [2021 c 291 § 9; 2016 c 237 § 3; 2015 3rd sp.s. c 1 § 108; 2013 2nd sp.s. c 33 § 1; 2011 1st sp.s. c 43 § 706. Formerly RCW 43.41A.025.]

Short title—2016 c 237: See note following RCW 43.105.020.

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.057 Rule-making authority. The agency shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this chapter. [2011 1st sp.s. c 43 § 807; 1992 c 20 § 11; 1990 c 208 § 13.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.105.060 Contracts by state and local agencies with agency. State and local government agencies are authorized to enter into any contracts with the agency which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter. [2011 1st sp.s. c

43 § 808; 1987 c 504 § 10; 1973 1st ex.s. c 219 § 9; 1967 ex.s. c 115 § 6.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.105.111 Performance targets—Plans for achieving goals—Quarterly reports to governor. The director shall set performance targets and approve plans for achieving measurable and specific goals for the agency. By January 2017, the appropriate organizational performance and accountability measures and performance targets shall be submitted to the governor. These measures and targets shall include measures of performance demonstrating specific and measurable improvements related to service delivery and costs, operational efficiencies, and overall customer satisfaction. The agency shall develop a dashboard of key performance measures that will be updated quarterly and made available on the agency public website.

The director shall report to the governor on agency performance at least quarterly. The reports shall be included on the agency's website and accessible to the public. [2015 3rd sp.s. c 1 § 105; 2011 1st sp.s. c 43 § 806.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.205 Office of the state chief information officer—Created—Powers, duties, and functions. (1) The office of the state chief information officer is created within the consolidated technology services agency.

(2) The primary duties of the office are:

(a) To prepare and lead the implementation of a strategic direction and enterprise architecture for information technology for state government;

(b) To establish standards and policies for the consistent and efficient operation of information technology services throughout state government;

(c) To establish statewide enterprise architecture that will serve as the organizing standard for information technology for state agencies;

(d) To educate and inform state managers and policy-makers on technological developments, industry trends and best practices, industry benchmarks that strengthen decision making and professional development, and industry understanding for public managers and decision makers; and

(e) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

(3) In the case of institutions of higher education, the powers of the office and the provisions of this chapter apply to business and administrative applications but do not apply to (a) academic and research applications; and (b) medical, clinical, and health care applications, including the business and administrative applications for such operations. However, institutions of higher education must disclose to the office any proposed academic applications that are enterprise-wide in nature relative to the needs and interests of other institutions of higher education. Institutions of higher education shall provide to the director sufficient data and information on proposed expenditures on business and

administrative applications to permit the director to evaluate the proposed expenditures pursuant to RCW 43.88.092(3).

(4) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, are strongly encouraged to coordinate with the office and participate in shared services initiatives and the development of enterprise-based strategies, where appropriate. Legislative and judicial agencies of the state shall submit to the director information on proposed information technology expenditures to allow the director to evaluate the proposed expenditures on an advisory basis. [2015 3rd sp.s. c 1 § 201; 2013 2nd sp.s. c 33 § 3; 2011 1st sp.s. c 43 § 702. Formerly RCW 43.41A.010.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.220 Strategic information technology plan—Biennial performance reports. (1) The office shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the office. The office shall seek the advice of the board in the development of this plan.

The plan shall be updated as necessary and submitted to the governor and the legislature.

(2) The office shall prepare a biennial state performance report on information technology based on state agency performance reports required under RCW 43.105.235 and other information deemed appropriate by the office. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

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

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services; and

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.245. At a minimum, the portion of the report regarding major technology projects must include:

(i) The total cost data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

(v) Identification of benefits generated by major information technology projects developed under RCW 43.105.245.

Copies of the report shall be distributed biennially to the governor and the legislature. The major technology section of the report must examine major information technology projects completed in the previous biennium. [2015 3rd sp.s. c 1 § 203; 2011 1st sp.s. c 43 § 707. Formerly RCW 43.41A.030.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.225 Managing information technology as a statewide portfolio. Management of information technology across state government requires managing resources and business processes across multiple agencies. It is no longer sufficient to pursue efficiencies within agency or individual business process boundaries. The state must manage the business process changes and information technology in support of business processes as a statewide portfolio. The director will use agency information technology portfolio planning as input to develop a statewide portfolio to guide resource allocation and prioritization decisions. [2015 3rd sp.s. c 1 § 204; 2011 1st sp.s. c 43 § 708. Formerly RCW 43.41A.035.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.230 State agency information technology portfolio—Basis for decisions and plans. A state agency information technology portfolio shall serve as the basis for making information technology decisions and plans which may include, but are not limited to:

(1) System refurbishment, acquisitions, and development efforts;

(2) Setting goals and objectives for using information technology;

(3) Assessments of information processing performance, resources, and capabilities;

(4) Ensuring the appropriate transfer of technological expertise for the operation of new systems developed using external resources;

(5) Guiding new investment demand, prioritization, selection, performance, and asset value of technology and telecommunications; and

(6) Progress toward providing electronic access to public information. [2015 3rd sp.s. c 1 § 205; 2011 1st sp.s. c 43 § 709. Formerly RCW 43.41A.040.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.235 State agency information technology portfolio—Exemptions. (1) Each state agency shall develop an information technology portfolio consistent with RCW 43.105.341. The superintendent of public instruction shall develop its portfolio in conjunction with educational service

districts and statewide or regional providers of K-12 education information technology services.

(2) The director may exempt any state agency from any or all of the requirements of this section. [2015 3rd sp.s. c 1 § 206; 2011 1st sp.s. c 43 § 710. Formerly RCW 43.41A.045.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.240 Evaluation of agency information technology spending and budget requests. (1) Pursuant to RCW 43.88.092(3), at the request of the director of financial management, the office shall evaluate both state agency information technology current spending and technology budget requests, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The office shall submit recommendations for funding all or part of such requests to the director of financial management. The office shall also submit recommendations regarding consolidation and coordination of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The office shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. Technology budget requests shall be evaluated in the context of the state's information technology portfolio; technology initiatives underlying budget requests are subject to review by the office. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan and the state enterprise architecture, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, services, duration of investment, costs, and benefits. [2015 3rd sp.s. c 1 § 207; 2011 1st sp.s. c 43 § 711. Formerly RCW 43.41A.050.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.245 Planning, implementation, and evaluation of major projects—Standards and policies. (1) The office shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

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

(b) Establish a model process and procedures which state agencies shall follow in developing and implementing proj-

ects within their information technology portfolios. This process may include project oversight experts or panels, as appropriate. State agencies may propose, for approval by the office, a process and procedures unique to the agency. The office may accept or require modification of such agency proposals or the office may reject those proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the office.

The director may suspend or terminate a major project, and direct that the project funds be placed into unallotted reserve status, if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

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

(b) Other elements deemed necessary by the office of financial management. [2015 3rd sp.s. c 1 § 208; 2011 1st sp.s. c 43 § 712. Formerly RCW 43.41A.055.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.255 Major technology projects and services—Approval. (1) Prior to making a commitment to purchase, acquire, or develop a major information technology project or service, state agencies must provide a proposal to the office outlining the business case of the proposed product or service, including the up-front and ongoing cost of the proposal.

(2) Within thirty days of receipt of a proposal, the office shall approve the proposal, reject it, or propose modifications.

(3) In reviewing a proposal, the office must determine whether the product or service is consistent with:

(a) The standards and policies developed by the director pursuant to RCW 43.105.054; and

(b) The state's enterprise-based strategy.

(4) If a substantially similar product or service is offered by the agency, the director may require the state agency to procure the product or service through the agency, if doing so would benefit the state as an enterprise.

(5) The office shall provide guidance to state agencies as to what threshold of information technology spending constitutes a major information technology product or service

under this section. [2015 3rd sp.s. c 1 § 209; 2011 1st sp.s. c 43 § 713. Formerly RCW 43.41A.060.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.265 Enterprise-based strategy for information technology—Use of ongoing enterprise architecture program. (1) The office shall develop an enterprise-based strategy for information technology in state government informed by portfolio management planning and information technology expenditure information collected from state agencies pursuant to RCW 43.88.092.

(2)(a) The office shall develop an ongoing enterprise architecture program for translating business vision and strategy into effective enterprise change. This program will create, communicate, and improve the key principles and models that describe the enterprise's future state and enable its evolution, in keeping with the priorities of government and the information technology strategic plan.

(b) The enterprise architecture program will facilitate business process collaboration among agencies statewide; improving the reliability, interoperability, and sustainability of the business processes that state agencies use.

In developing an enterprise-based strategy for the state, the office is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(i) Developing evaluation criteria for deciding which common enterprise-wide business processes should become managed as enterprise services;

(ii) Developing a road map of priorities for creating enterprise services;

(iii) Developing decision criteria for determining implementation criteria for centralized or decentralized enterprise services;

(iv) Developing evaluation criteria for deciding which technology investments to continue, hold, or drop; and

(v) Performing such other duties as may be needed to promote effective enterprise change.

(c) The office will establish performance measurement criteria for each of its initiatives; will measure the success of those initiatives; and will assess its quarterly results with the director to determine whether to continue, revise, or disband the initiative. [2015 3rd sp.s. c 1 § 210; 2011 1st sp.s. c 43 § 714. Formerly RCW 43.41A.065.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.285 Technology services board—Created—Composition. (1) The technology services board is created within the agency.

(2) The board shall be composed of thirteen members. Six members shall be appointed by the governor, three of whom shall be representatives of state agencies or institutions, and three of whom shall be representatives of the private sector. Of the state agency representatives, at least one of the representatives must have direct experience using the software projects overseen by the board or reasonably expect

to use the new software developed under the oversight of the board. Two members shall represent the house of representatives and shall be selected by the speaker of the house of representatives with one representative chosen from each major caucus of the house of representatives; two members shall represent the senate and shall be appointed by the president of the senate with one representative chosen from each major caucus of the senate. One member shall be the director who shall be a voting member of the board and serve as chair. Two nonvoting members with information technology expertise must be appointed by the governor as follows:

(a) One member representing state agency bargaining units shall be selected from a list of three names submitted by each of the general government exclusive bargaining representatives; and

(b) One member representing local governments shall be selected from a list of three names submitted by commonly recognized local government organizations.

The governor may reject all recommendations and request new recommendations.

(3) Of the initial members, three must be appointed for a one-year term, three must be appointed for a two-year term, and four must be appointed for a three-year term. Thereafter, members must be appointed for three-year terms.

(4) Vacancies shall be filled in the same manner that the original appointments were made for the remainder of the member's term.

(5) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) The office shall provide staff support to the board. [2015 3rd sp.s. c 1 § 211; 2011 1st sp.s. c 43 § 715. Formerly RCW 43.41A.070.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.287 Technology services board—Powers and duties. The board shall have the following powers and duties related to information services:

(1) To review and approve standards and policies, developed by the office, governing the acquisition and disposition of equipment, proprietary software, and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(2) To review and approve statewide or interagency technical policies and standards developed by the office;

(3) To review, approve, and provide oversight of major information technology projects to ensure that no major information technology project proposed by a state agency is approved or authorized funding by the board without consideration of the technical and financial business case for the project, including a review of:

(a) The total cost of ownership across the life of the project;

(b) All major technical options and alternatives analyzed, and reviewed, if necessary, by independent technical sources; and

(c) Whether the project is technically and financially justifiable when compared against the state's enterprise-based

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strategy, long-term technology trends, and existing or potential partnerships with private providers or vendors;

(4) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by state agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(5) To develop a policy to determine whether a proposed project, product, or service should undergo an independent technical and financial analysis prior to submitting a request to the office of financial management for the inclusion in any proposed operating, capital, or transportation budget;

(6) To approve contracting for services and activities under *RCW 41.06.142(7) for the agency. To approve any service or activity to be contracted under *RCW 41.06.142(7)(b), the board must also review the proposed business plan and recommendation submitted by the office;

(7) To consider, on an ongoing basis, ways to promote strategic investments in enterprise-level information technology projects that will result in service improvements and cost efficiency;

(8) To provide a forum to solicit external expertise and perspective on developments in information technology, enterprise architecture, standards, and policy development; and

(9) To provide a forum where ideas and issues related to information technology plans, policies, and standards can be reviewed. [2015 3rd sp.s. c 1 § 212; 2011 1st sp.s. c 43 § 716. Formerly RCW 43.41A.075.]

***Reviser's note:** RCW 41.06.142 was amended by 2020 c 269 § 2, changing subsection (7) to subsection (11).

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.331 State interoperability executive committee—Composition—Responsibilities. (1) The director shall appoint a state interoperability executive committee, the membership of which must include, but not be limited to, representatives of the military department, the Washington state patrol, the department of transportation, the office of the state chief information officer, the department of natural resources, the department of fish and wildlife, the department of health, the department of corrections, city and county governments, state and local fire chiefs, police chiefs, and sheriffs, state and local emergency management directors, tribal nations, and public safety answering points, commonly known as 911 call centers. The chair and legislative members of the board will serve as nonvoting ex officio members of the committee. Voting membership may not exceed twenty-two members.

(2) The director shall appoint the chair of the committee from among the voting members of the committee.

(3) The state interoperability executive committee has the following responsibilities:

(a) Develop policies and make recommendations to the office for technical standards for state wireless radio communications systems, including emergency communications systems. The standards must address, among other things, the interoperability of systems, taking into account both existing and future systems and technologies;

(b) Coordinate and manage on behalf of the office the licensing and use of state-designated and state-licensed radio frequencies, including the spectrum used for public safety and emergency communications, and serve as the point of contact with the federal communications commission and the first responders network authority on matters relating to allocation, use, and licensing of radio spectrum;

(c) Coordinate the purchasing of all state wireless radio communications system equipment to ensure that:

(i) Any new trunked radio system shall be, at a minimum, project-25; and

(ii) Any new land-mobile radio system that requires advanced digital features shall be, at a minimum, project-25;

(d) Seek support, including possible federal or other funding, for state-sponsored wireless communications systems;

(e) Develop recommendations for legislation that may be required to promote interoperability of state wireless communications systems;

(f) Foster cooperation and coordination among public safety and emergency response organizations;

(g) Work with wireless communications groups and associations to ensure interoperability among all public safety and emergency response wireless communications systems; and

(h) Perform such other duties as may be assigned by the director to promote interoperability of wireless communications systems.

(4) The office shall provide administrative support to the committee. [2017 c 92 § 1; 2015 3rd sp.s. c 1 § 213; 2011 1st sp.s. c 43 § 717. Formerly RCW 43.41A.080.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.341 Information technology portfolios. Information technology portfolios shall reflect (1) links among an agency's objectives, business plan, and technology; (2) analysis of the effect of an agency's proposed new technology investments on its existing infrastructure and business functions; and (3) analysis of the effect of proposed information technology investments on the state's information technology infrastructure. [1999 c 80 § 2. Formerly RCW 43.41A.110, 43.105.172.]

43.105.342 Consolidated technology services revolving account—Independent technical and financial analysis of proposed projects by the board. (1) The consolidated technology services revolving account is created in the custody of the state treasurer. All receipts from agency fees and charges for services collected from public agencies must be deposited into the account. The account must be used for the:

(a) Acquisition of equipment, software, supplies, and services; and

(b) Payment of salaries, wages, and other costs incidental to the acquisition, development, maintenance, operation, and administration of: (i) Information services; (ii) telecommunications; (iii) systems; (iv) software; (v) supplies; and (vi) equipment, including the payment of principal and interest on debt by the agency and other users as determined by the office of financial management.

(2) The director or the director's designee, with the approval of the technology services board, is authorized to expend up to one million dollars per fiscal biennium for the technology services board to conduct independent technical and financial analysis of proposed information technology projects.

(3) Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures except as provided in subsection (4) of this section.

(4) Expenditures for the strategic planning and policy component of the agency are subject to appropriation. [2015 3rd sp.s. c 1 § 501.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

43.105.351 Electronic access to public records—Findings—Intent. Based upon the recommendations of the public information access policy task force, the legislature finds that government records and information are a vital resource to both government operations and to the public that government serves. Broad public access to state and local government records and information has potential for expanding citizen access to that information and for improving government services. Electronic methods for locating and transferring information can improve linkages between and among citizens, organizations, businesses, and governments. Information must be managed with great care to meet the objectives of citizens and their governments.

It is the intent of the legislature to encourage state and local governments to develop, store, and manage their public records and information in electronic formats to meet their missions and objectives. Further, it is the intent of the legislature for state and local governments to set priorities for making public records widely available electronically to the public. [1996 c 171 § 1. Formerly RCW 43.41A.115, 43.105.250.]

43.105.355 Electronic access to public records—Costs and fees. Funding to meet the costs of providing access, including the building of the necessary information systems, the digitizing of information, developing the ability to mask nondisclosable information, and maintenance and upgrade of information access systems should come primarily from state and local appropriations, federal dollars, grants, private funds, cooperative ventures among governments, nonexclusive licensing, and public/private partnerships.

State agencies and local governments are encouraged to pool resources and to form cooperative ventures to provide electronic access to government records and information. State agencies are encouraged to seek federal and private

grants for projects that provide increased efficiency and improve government delivery of information and services. [2015 3rd sp.s. c 1 § 217; 1996 c 171 § 12. Formerly RCW 43.41A.130, 43.105.280.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Additional notes found at www.leg.wa.gov

43.105.359 Electronic access to public records—Government information locator service pilot project. The state library, with the assistance of the office and the state archives, shall establish a pilot project to design and test an electronic information locator system, allowing members of the public to locate and access electronic public records. In designing the system, the following factors shall be considered: (1) Ease of operation by citizens; (2) access through multiple technologies, such as direct dial and toll-free numbers, kiosks, and the internet; (3) compatibility with private online services; and (4) capability of expanding the electronic public records included in the system. The pilot project may restrict the type and quality of electronic public records that are included in the system to test the feasibility of making electronic public records and information widely available to the public. [2011 1st sp.s. c 43 § 724; 1996 c 171 § 13. Formerly RCW 43.41A.135, 43.105.290.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.105.365 Accuracy, integrity, and privacy of records and information. State agencies and local governments that collect and enter information concerning individuals into electronic records and information systems that will be widely accessible by the public under RCW 42.56.010 shall ensure the accuracy of this information to the extent possible. To the extent possible, information must be collected directly from, and with the consent of, the individual who is the subject of the data. State agencies shall establish procedures for correcting inaccurate information, including establishing mechanisms for individuals to review information about themselves and recommend changes in information they believe to be inaccurate. The inclusion of personal information in electronic public records that is widely available to the public should include information on the date when the database was created or most recently updated. If personally identifiable information is included in electronic public records that are made widely available to the public, state agencies must follow retention and archival schedules in accordance with chapter 40.14 RCW, retaining personally identifiable information only as long as needed to carry out the purpose for which it was collected. At least once every five years, each agency that collects information must review the information collected and justify why it is being collected and for what purpose. [2015 3rd sp.s. c 1 § 218; 2011 c 60 § 39; 1996 c 171 § 15. Formerly RCW 43.41A.140, 43.105.310.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Additional notes found at www.leg.wa.gov

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43.105.369 Office of privacy and data protection. (1)

The office of privacy and data protection is created within the office of the state chief information officer. The purpose of the office of privacy and data protection is to serve as a central point of contact for state agencies on policy matters involving data privacy and data protection.

(2) The director shall appoint the chief privacy officer, who is the director of the office of privacy and data protection.

(3) The primary duties of the office of privacy and data protection with respect to state agencies are:

- (a) To conduct an annual privacy review;
- (b) To conduct an annual privacy training for state agencies and employees;
- (c) To articulate privacy principles and best practices;
- (d) To coordinate data protection in cooperation with the agency; and

(e) To participate with the office of the state chief information officer in the review of major state agency projects involving personally identifiable information.

(4) The office of privacy and data protection must serve as a resource to local governments and the public on data privacy and protection concerns by:

(a) Developing and promoting the dissemination of best practices for the collection and storage of personally identifiable information, including establishing and conducting a training program or programs for local governments; and

(b) Educating consumers about the use of personally identifiable information on mobile and digital networks and measures that can help protect this information.

(5) By December 1, 2016, and every four years thereafter, the office of privacy and data protection must prepare and submit to the legislature a report evaluating its performance. The office of privacy and data protection must establish performance measures in its 2016 report to the legislature and, in each report thereafter, demonstrate the extent to which performance results have been achieved. These performance measures must include, but are not limited to, the following:

(a) The number of state agencies and employees who have participated in the annual privacy training;

(b) A report on the extent of the office of privacy and data protection's coordination with international and national experts in the fields of data privacy, data protection, and access equity;

(c) A report on the implementation of data protection measures by state agencies attributable in whole or in part to the office of privacy and data protection's coordination of efforts; and

(d) A report on consumer education efforts, including but not limited to the number of consumers educated through public outreach efforts, as indicated by how frequently educational documents were accessed, the office of privacy and data protection's participation in outreach events, and inquiries received back from consumers via telephone or other media.

(6) Within one year of June 9, 2016, the office of privacy and data protection must submit to the joint legislative audit and review committee for review and comment the performance measures developed under subsection (5) of this section and a data collection plan.

(7) The office of privacy and data protection shall submit a report to the legislature on the: (a) Extent to which telecommunications providers in the state are deploying advanced telecommunications capability; and (b) existence of any inequality in access to advanced telecommunications infrastructure experienced by residents of tribal lands, rural areas, and economically distressed communities. The report may be submitted at a time within the discretion of the office of privacy and data protection, at least once every four years, and only to the extent the office of privacy and data protection is able to gather and present the information within existing resources. [2016 c 195 § 2.]

Findings—2016 c 195: "The legislature finds that the rapid expansion of digital technology and mobile networks is changing how citizens access and share personal data and communications. Data privacy, data protection, and access equity are of increasing concern for all residents of the state. State agencies and programs entrusted by citizens with sensitive personal information must serve as responsible custodians of this data. The state can also play an important role in educating local governments and consumers about measures that may help them protect this information and as an advocate for access equity. In an interconnected world, citizens who lack meaningful access to digital technology, including mobile networks and high-speed internet connections, lack the necessary tools for sharing in the state's technology, innovation, and economic development successes. For the forgoing reasons, the legislature finds that it is necessary and efficient to have a central point of contact for policy matters involving data privacy, data protection, and access equity." [2016 c 195 § 1.]

43.105.375 Use of state data center or commercial cloud computing services—Exceptions. (1) Except as provided by subsection (2) of this section, state agencies shall locate all existing and new information or telecommunications investments in the state data center or within third-party, commercial cloud computing services.

(2) State agencies with a service requirement that precludes them from complying with subsection (1) of this section must receive a waiver from the office. Waivers must be based upon written justification from the requesting state agency citing specific service or performance requirements for locating servers outside the state's common platform.

(3) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, may enter into an interagency agreement with the office to migrate its servers into the state data center or third-party, commercial cloud computing services.

(5) [(4)] This section does not apply to institutions of higher education. [2021 c 40 § 3; 2015 3rd sp.s. c 1 § 219; 2011 1st sp.s. c 43 § 735. Formerly RCW 43.41A.150.]

Findings—Intent—2021 c 40: "(1) The legislature finds that the advent of the COVID-19 pandemic has increased the needs of the people of Washington for state services. From unemployment benefits to information on the incidence of disease in the state, Washingtonians have increasingly turned to state government for vital services and information.

(2) The legislature further finds that the state's information technology infrastructure is outdated and with insufficient capacity to handle the increased demand and has, in many cases, not been adequate to enable the state to provide the needed services effectively and efficiently.

(3) Therefore, the legislature intends to migrate the state's information technology toward cloud services, which will deliver the capacity, security, resiliency, disaster recovery capability, and data analytics necessary to allow the state to provide Washingtonians the services they require during this pandemic and in the future." [2021 c 40 § 1.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.385 Agency as central service provider for state agencies. (1) The office shall conduct a needs assessment and develop a migration strategy to ensure that, over time, all state agencies are moving towards using the agency as their central service provider for all utility-based infrastructure services, including centralized PC and infrastructure support. State agency-specific application services shall remain managed within individual agencies.

(2) The office shall develop short-term and long-term objectives as part of the migration strategy.

(3) This section does not apply to institutions of higher education. [2015 3rd sp.s. c 1 § 220; 2011 1st sp.s. c 43 § 736. Formerly RCW 43.41A.152.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.105.450 Office of cybersecurity—State chief information security officer—State agency information technology security. (1) The office of cybersecurity is created within the office of the chief information officer.

(2) The director shall appoint a state chief information security officer, who is the director of the office of cybersecurity.

(3) The primary duties of the office of cybersecurity are:

(a) To establish security standards and policies to protect the state's information technology systems and infrastructure, to provide appropriate governance and application of the standards and policies across information technology resources used by the state, and to ensure the confidentiality, availability, and integrity of the information transacted, stored, or processed in the state's information technology systems and infrastructure;

(b) To develop a centralized cybersecurity protocol for protecting and managing state information technology assets and infrastructure;

(c) To detect and respond to security incidents consistent with information security standards and policies;

(d) To create a model incident response plan for agency adoption, with the office of cybersecurity as the incident response coordinator for incidents that: (i) Impact multiple agencies; (ii) impact more than 10,000 citizens; (iii) involve a nation state actor; or (iv) are likely to be in the public domain;

(e) To ensure the continuity of state business and information resources that support the operations and assets of state agencies in the event of a security incident;

(f) To provide formal guidance to agencies on leading practices and applicable standards to ensure a whole government approach to cybersecurity, which shall include, but not be limited to, guidance regarding: (i) The configuration and architecture of agencies' information technology systems, infrastructure, and assets; (ii) governance, compliance, and oversight; and (iii) incident investigation and response;

(g) To serve as a resource for local and municipal governments in Washington in the area of cybersecurity;

(h) To develop a service catalog of cybersecurity services to be offered to state and local governments;

(i) To collaborate with state agencies in developing standards, functions, and services in order to ensure state agency

regulatory environments are understood and considered as part of an enterprise cybersecurity response;

(j) To define core services that must be managed by agency information technology security programs; and

(k) To perform all other matters and things necessary to carry out the purposes of this chapter.

(4) In performing its duties, the office of cybersecurity must address the highest levels of security required to protect confidential information transacted, stored, or processed in the state's information technology systems and infrastructure that is specifically protected from disclosure by state or federal law and for which strict handling requirements are required.

(5) In executing its duties under subsection (3) of this section, the office of cybersecurity shall use or rely upon existing, industry standard, widely adopted cybersecurity standards, with a preference for United States federal standards.

(6) Each state agency, institution of higher education, the legislature, and the judiciary must develop an information technology security program consistent with the office of cybersecurity's standards and policies.

(7)(a) Each state agency information technology security program must adhere to the office of cybersecurity's security standards and policies. Each state agency must review and update its program annually, certify to the office of cybersecurity that its program is in compliance with the office of cybersecurity's security standards and policies, and provide the office of cybersecurity with a list of the agency's cybersecurity business needs and agency program metrics.

(b) The office of cybersecurity shall require a state agency to obtain an independent compliance audit of its information technology security program and controls at least once every three years to determine whether the state agency's information technology security program is in compliance with the standards and policies established by the agency and that security controls identified by the state agency in its security program are operating efficiently.

(c) If a review or an audit conducted under (a) or (b) of this subsection identifies any failure to comply with the standards and policies of the office of cybersecurity or any other material cybersecurity risk, the office of cybersecurity must require the state agency to formulate and implement a plan to resolve the failure or risk. On an annual basis, the office of cybersecurity must provide a confidential report to the governor and appropriate committees of the legislature identifying and describing the cybersecurity risk or failure to comply with the office of cybersecurity's security policy or implementing cybersecurity standards and policies, as well as the agency's plan to resolve such failure or risk. Risks that are not mitigated are to be tracked by the office of cybersecurity and reviewed with the governor and the chair and ranking member of the appropriate committees of the legislature on a quarterly basis.

(d) The reports produced, and information compiled, pursuant to this subsection (7) are confidential and may not be disclosed under chapter 42.56 RCW.

(8) In the case of institutions of higher education, the judiciary, and the legislature, each information technology security program must be comparable to the intended out-

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comes of the office of cybersecurity's security standards and policies. [2021 c 291 § 1.]

43.105.460 Office of cybersecurity—Catalog of services and functions—Report. (1) By July 1, 2022, the office of cybersecurity, in collaboration with state agencies, shall develop a catalog of cybersecurity services and functions for the office of cybersecurity to perform and submit a report to the legislature and governor. The report must include, but not be limited to:

(a) Cybersecurity services and functions to include in the office of cybersecurity's catalog of services that should be performed by the office of cybersecurity;

(b) Core capabilities and competencies of the office of cybersecurity;

(c) Security functions which should remain within agency information technology security programs;

(d) A recommended model for accountability of agency security programs to the office of cybersecurity; and

(e) The cybersecurity services and functions required to protect confidential information transacted, stored, or processed in the state's information technology systems and infrastructure that is specifically protected from disclosure by state or federal law and for which strict handling requirements are required.

(2) The office of cybersecurity shall update and publish its catalog of services and performance metrics on a biennial basis. The office of cybersecurity shall use data and information provided from agency security programs to inform the updates to its catalog of services and performance metrics.

(3) To ensure alignment with enterprise information technology security strategy, the office of cybersecurity shall develop a process for reviewing and evaluating agency proposals for additional cybersecurity services consistent with RCW 43.105.255. [2021 c 291 § 2.]

43.105.470 Office of cybersecurity—Major cybersecurity incidents—Reporting duties. (1) In the event of a major cybersecurity incident, as defined in policy established by the office of cybersecurity in accordance with RCW 43.105.450, state agencies must report that incident to the office of cybersecurity within 24 hours of discovery of the incident.

(2) State agencies must provide the office of cybersecurity with contact information for any external parties who may have material information related to the cybersecurity incident.

(3) Once a cybersecurity incident is reported to the office of cybersecurity, the office of cybersecurity must investigate the incident to determine the degree of severity and facilitate any necessary incident response measures that need to be taken to protect the enterprise.

(4) The chief information security officer or the chief information security officer's designee shall serve as the state's point of contact for all major cybersecurity incidents.

(5) The office of cybersecurity must create policy to implement this section. [2021 c 291 § 3.]

43.105.825 K-20 network—Oversight—Coordination of telecommunications planning. (1) In overseeing the technical aspects of the K-20 network, the board is not

intended to duplicate the statutory responsibilities of the student achievement council, the superintendent of public instruction, the board, the state librarian, or the governing boards of the institutions of higher education.

(2) The board may not interfere in any curriculum or legally offered programming offered over the network.

(3) The responsibility to review and approve standards and common specifications for the network remains the responsibility of the board.

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. The board may recommend, but not require, revisions to the superintendent's telecommunications plans. [2015 3rd sp.s. c 1 § 106; 2012 c 229 § 588; 2004 c 275 § 62; 1999 c 285 § 7.]

Effective date—2015 3rd sp.s. c 1 §§ 101-109, 201-224, 406-408, 410, 501-507, 601, and 602: See note following RCW 43.105.007.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Additional notes found at www.leg.wa.gov

43.105.904 Actions of telecommunications oversight and policy committee—Savings—1999 c 285. Actions of the telecommunications oversight and policy committee in effect on June 30, 1999, shall remain in effect thereafter unless modified or repealed by the *K-20 board. [1999 c 285 § 4.]

***Reviser's note:** RCW 43.105.800, which created the K-20 board, was repealed by 2010 1st sp.s. c 7 § 63.

43.105.905 Construction—2008 c 262. Nothing in this act may be construed as giving the *department of information services or any other entities any additional authority, regulatory or otherwise, over providers of telecommunications and information technology. [2008 c 262 § 4.]

***Reviser's note:** The "department of information services" was renamed the "consolidated technology services agency" by 2011 1st sp.s. c 43 § 803.

Findings—Intent—2008 c 262: "(1) The legislature finds and declares the following:

(a) The deployment and adoption of high-speed internet services and information technology has resulted in enhanced economic development and public safety for the state's communities, improved health care and educational opportunities, and a better quality of life for the state's residents;

(b) Continued progress in the deployment and adoption of high-speed internet services and other advanced telecommunications services, both land-based and wireless, is vital to ensuring Washington remains competitive and continues to create business and job growth; and

(c) That the state must encourage and support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology for state residents and businesses.

(2) Therefore, in order to begin advancing the state towards further growth and development of high-speed internet in the state, and to ensure a better quality of life for all state residents, it is the legislature's intent to conduct a statewide needs assessment of broadband internet resources through an open dialogue with all interested parties, including providers, unions, businesses, community organizations, local governments, and state agencies. The legislature intends to use this needs assessment in guiding future plans on how to ensure that every resident in Washington state may gain access to high-speed internet services and, as part of this effort, to address digital literacy and technology training needs of low-income and technology underserved residents of the state through state support of community technology programs." [2008 c 262 § 1.]

43.105.906 Conflict with federal requirements—2009 c 509. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2009 c 509 § 11.]

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

43.105.907 Transfer of certain powers, duties, and functions of the department of information services. (1) Those powers, duties, and functions of the department of information services being transferred to the consolidated technology services agency as set forth in *sections 801 through 816, chapter 43, Laws of 2011 1st sp. sess. are hereby transferred to the consolidated technology services agency.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services shall be delivered to the custody of the consolidated technology services agency. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services shall be made available to the consolidated technology services agency. All funds, credits, or other assets held by the department of information services shall be assigned to the consolidated technology services agency.

(b) Any appropriations made to the department of information services shall, on October 1, 2011, be transferred and credited to the consolidated technology services agency.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of information services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the consolidated technology services agency. All existing contracts and obligations shall remain in full force and shall be performed by the consolidated technology services agency.

(4) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before October 1, 2011.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of information services engaged in performing the powers, functions, and duties transferred to the consolidated technology services agency are transferred to the consolidated technology services agency. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the consolidated technology services agency to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

(7) Unless or until modified by the public employment relations commission pursuant to RCW 41.80.911:

(a) The portions of the bargaining units of employees at the department of information services existing on October 1, 2011, shall be considered appropriate units at the consolidated technology services agency and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of information services existing on October 1, 2011, shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election. [2011 1st sp.s. c 43 § 1009. Formerly RCW 43.41A.900.]

***Reviser's note:** Sections 815 and 816, chapter 43, Laws of 2011 1st sp. sess. were vetoed.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Chapter 43.110 RCW LOCAL GOVERNMENT RESEARCH AND SERVICES PROGRAM

(Formerly: Municipal research council)

Sections

43.110.030 Municipal research and services.
43.110.080 Research and services to special purpose districts.

43.110.030 Municipal research and services. (1) The department of commerce must contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services must be made with state agencies, educational institutions, or private consulting firms, that in the judgment of the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the department are qualified to provide such support.

(2) Municipal research and services consists of:

(a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

(b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

(c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government;

(d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning,

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public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government; and

(e)(i) For any ordinance, resolution, or policy adopted by a city, town, or county that imposes a requirement on landlords or sellers of real property to provide information to a buyer or tenant pertaining to the subject property or the surrounding area, posting:

(A) A summary of the ordinance, resolution, or policy; and

(B) An internet link to the ordinance, resolution, or policy, or the relevant portion of the actual language of the ordinance, resolution, or policy.

(ii) Information provided by cities, towns, and counties regarding an ordinance, resolution, or policy under (e)(i) of this subsection must be posted in a specific section on a website maintained by the entity with which the department of commerce contracts for the provision of municipal research and services under this section, and must list by jurisdiction all applicable requirements. Cities, towns, and counties must provide information for posting on the website in accordance with RCW 64.06.080.

(3) Requests for legal services by county officials must be sent to the office of the county prosecuting attorney. Responses by the department of commerce to county requests for legal services must be provided to the requesting official and the county prosecuting attorney.

(4) The department of commerce must coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. [2016 c 138 § 2; 2015 2nd sp.s. c 10 § 5; 2012 2nd sp.s. c 5 § 5; 2010 c 271 § 701; 2000 c 227 § 3; 1997 c 437 § 2; 1990 c 104 § 2.]

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Additional notes found at www.leg.wa.gov

43.110.080 Research and services to special purpose districts. (1) The department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of the department is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of:

(a) Studying and researching issues relating to special purpose district government;

(b) Acquiring, preparing, and distributing publications related to special purpose districts; and

(c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the department of commerce from

the special purpose district research services account under *RCW 43.110.090. [2010 c 271 § 703; 2006 c 328 § 1.]

*Reviser's note: RCW 43.110.090 was repealed by 2010 1st sp.s. c 9 § 8.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Chapter 43.113 RCW

COMMISSION ON AFRICAN AMERICAN AFFAIRS

Sections

- 43.113.005 Legislative declaration.
- 43.113.010 Commission created.
- 43.113.020 Membership—Terms—Vacancies—Quorum—Expenses.
- 43.113.030 Powers and duties.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.113.005 Legislative declaration. The legislature declares that it is the public policy of this state to insure equal opportunity for all of its citizens. The legislature finds that, for economic, social, and historical reasons, a disproportionate number of African Americans find themselves disadvantaged or isolated from the benefits of equal opportunity. The legislature believes that it is the duty of this state to improve the well-being of African Americans by enabling them to participate fully in all fields of endeavor and by assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of African Americans can be improved by establishing a focal point in state government for the interests of African American citizens. Therefore, the legislature deems it necessary to establish in statute the commission on African American affairs to further these purposes. [1992 c 96 § 1.]

43.113.010 Commission created. The Washington state commission on African American affairs is created. The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall set the salary of the executive director. The executive director shall employ the staff of the commission. [1992 c 96 § 2.]

43.113.020 Membership—Terms—Vacancies—Quorum—Expenses. The commission shall consist of nine members, appointed by the governor. The commission shall make recommendations to the governor on appointment of the chair of the commission. The governor shall appoint the chair of the commission. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on African American population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. However, of the initial appointees, one-third shall serve three-year terms, one-third shall serve two-year terms, and one-third shall serve a one-year term. In the case of a vacancy, appointment shall be for the remainder of the unexpired term. No member shall serve more than two full consecutive terms. Members shall be reimbursed for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Five members shall constitute a

quorum for the purposes of conducting business. [1992 c 96 § 3.]

43.113.030 Powers and duties. The commission shall have the following powers and duties:

(1) Examine and define issues pertaining to the rights and needs of African Americans, and make recommendations to the governor and state agencies for changes in programs and laws.

(2) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of African Americans.

(3) Advise the legislature on issues of concern to the African American community.

(4) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for African Americans.

(5) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [2018 c 143 § 1; 1992 c 96 § 4.]

Chapter 43.114 RCW

LGBTQ COMMISSION

Sections

- 43.114.005 Legislative declaration.
- 43.114.010 Definitions.
- 43.114.020 Commission established.
- 43.114.030 Membership—Terms—Vacancies—Expenses—Quorum.
- 43.114.040 Executive director—Duties.
- 43.114.050 Duties of commission—State agencies to give assistance.
- 43.114.060 Powers of commission.
- 43.114.070 LGBTQ pride month.

43.114.005 Legislative declaration. The legislature declares that the public policy of this state is to ensure equal opportunity for all Washingtonians. The legislature believes that the state is responsible for improving its interface with the LGBTQ community, identifying the needs of its members, and ensuring that there is an effective means of advocating for LGBTQ equity in all aspects of state government. Therefore, the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [2019 c 395 § 1.]

43.114.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the Washington state LGBTQ commission.

(2) "LGBTQ" includes lesbian, gay, bisexual, transgender, and queer communities. [2019 c 395 § 2.]

43.114.020 Commission established. Subject to the availability of amounts appropriated for this specific purpose, the Washington state LGBTQ commission is established in the office of the governor. The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall set the salary of the executive director. The executive director shall employ the staff of the commission. [2019 c 395 § 3.]

43.114.030 Membership—Terms—Vacancies—Expenses—Quorum. (1) The commission consists of fifteen members appointed by the governor.

(2) The governor shall consider nominations for membership based upon maintaining a balanced and diverse distribution of race and ethnic, geographic, gender identity, sexual orientation, age, socioeconomic status, and occupational representation, where practicable.

(3) All commission members serve at the pleasure of the governor, but in no case may any member serve more than three years without formal reappointment by the governor. Of the persons initially appointed by the governor to the commission, five must be appointed to serve one year, five to serve two years, and five to serve three years. Upon expiration of such terms, subsequent appointments are for three years. Any vacancies occurring in the membership of the commission must be filled for the remainder of the unexpired term in the same manner as the original appointments.

(4) Two members of the senate, one from each of the two major political parties, appointed by the president of the senate, and two members of the house of representatives, one from each of the two major political parties, appointed by the speaker of the house of representatives, who support the legislative intent of the commission shall serve as advisory members. The legislative advisory members are nonvoting members and are not eligible to serve as a chair of the commission. All legislative advisory members shall serve for a two-year term and the position of any legislative advisory member shall be deemed vacated whenever such member ceases to be a member of the house from which the member was appointed.

(5)(a) Nonlegislative members must be reimbursed for expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

(b) Legislative members shall be reimbursed for expenses incurred in the performance of their duties in accordance with RCW 44.04.120.

(6) A simple majority of the commission's membership constitutes a quorum for the purpose of conducting business. Legislative advisory members are not included in determining a quorum. [2019 c 395 § 4.]

43.114.040 Executive director—Duties. The executive director of the commission shall:

- (1) Monitor state legislation affecting LGBTQ people;
- (2) Work with state agencies to assess programs and policies that affect LGBTQ people;
- (3) Coordinate with the minority commissions, women's commission, and human rights commission to address issues of mutual concern; and

(4) Work as a liaison between the public and private sector to eliminate barriers to economic and health equity for LGBTQ people. [2019 c 395 § 5.]

43.114.050 Duties of commission—State agencies to give assistance. (1) The commission shall have the following duties:

(a) Actively recruit and maintain a list of names of qualified LGBTQ people to fill vacancies on various boards and commissions;

(b) Provide a clearinghouse for information regarding both state and federal legislation as it relates to the purpose of this chapter;

(c) Identify and define specific needs of LGBTQ:

- (i) People of color;
- (ii) People with developmental disabilities;
- (iii) Seniors;
- (iv) People experiencing homelessness;
- (v) Economic and small business development; and
- (vi) Veterans, their spouses, and dependents;

(d) Consult with state agencies regarding the effect of agency policies, procedures, practices, laws, and administrative rules on the unique problems and needs of LGBTQ people. The commission shall also provide any data, input, and recommendations to state agencies on proposed agency rules and the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on those problems and needs;

(e) Provide resource and referral information to agencies and the public. The commission may gather data and disseminate information to the public in order to implement the purposes of this chapter;

(f) Consult with nonprofit organizations;

(g) Hold public hearings to gather input on issues related to the unique problems and needs of LGBTQ people;

(h) Advocate for removal of barriers for LGBTQ people; and

(i) Review best practices for discrimination and harassment policies and training and provide recommendations to state agencies as they update their discrimination and harassment policies. The commission shall also maintain a file of discrimination and harassment policies that meet high quality standards and make these files available for agency use.

(2) The commission must submit a report to the appropriate committees of the legislature and the governor every two years detailing the commission's activities. The report submitted must be in electronic format pursuant to RCW 43.01.036, and include, at minimum:

(a) Recommendations for addressing the needs identified under subsection (1)(c) of this section;

(b) Input received during public hearings and recommendations for addressing the problems and needs discussed at the public hearings; and

(c) Recommendations regarding preserving the memory and contributions of LGBTQ members lost to HIV/AIDS in Washington state.

(3) State agencies must provide appropriate and reasonable assistance to the commission as needed, including providing notice of agency proposed rule making and gathering data and information, including but not limited to voluntary demographics, economic disparity studies, and other collectable data by state agencies, in order for the commission to carry out the purpose of this chapter. [2019 c 395 § 6.]

43.114.060 Powers of commission. (1) The commission has the power to receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and to expend the same or any income therefrom according to their terms and the purpose of this chapter. The commission's executive director shall make a report of such funds received from private sources to the

office of financial management on a regular basis. Such funds received from private sources must not be applied to reduce or substitute for the commission's budget as appropriated by the legislature, but must be applied and expended toward projects and functions authorized by this chapter that were not funded by the legislature.

(2) In carrying out its duties, the commission may establish such relationships with public and private institutions, local governments, private industry, community organizations, and other segments of the general public as may be needed to promote equal opportunity for LGBTQ people in government, education, economic security, employment, and services.

(3) The commission may adopt rules and regulations pursuant to chapter 34.05 RCW as are necessary to implement the purpose of this chapter. [2019 c 395 § 7.]

43.114.070 LGBTQ pride month. The legislature declares that:

(1) June of each year will be known as LGBTQ pride month;

(2) The fourth week in June is designated as a time for people of this state to celebrate the contributions to the state by LGBTQ people in the arts, sciences, commerce, and education; and

(3) Educational institutions, public entities, and private organizations are encouraged to designate time for appropriate activities in commemoration of the lives, history, achievements, and contributions of LGBTQ people. [2019 c 395 § 8.]

Chapter 43.115 RCW

STATE COMMISSION ON HISPANIC AFFAIRS

Sections

43.115.010	Legislative declaration.
43.115.020	Commission created.
43.115.030	Membership—Terms—Vacancies—Travel expenses—Quorum.
43.115.040	Officers and employees—Rules and regulations.
43.115.045	Executive director.
43.115.060	Relationships with local government and private industry.
43.115.900	Severability—1971 ex.s. c 34.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.115.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature believes that it is the duty of the state to improve the well-being of Hispanics by enabling them to participate fully in all fields of endeavor and assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of Hispanics can be improved by establishing a focal point in state government for the interests of Hispanics. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1993 c 261 § 1; 1987 c 249 § 1; 1971 ex.s. c 34 § 1.]

43.115.020 Commission created. There is created a Washington state commission on Hispanic affairs. [1987 c 249 § 2; 1971 ex.s. c 34 § 2.]

[Title 43 RCW—page 620]

43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum. (1) The commission shall consist of eleven members of Hispanic origin appointed by the governor. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on the Hispanic population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. No member shall serve more than two full consecutive terms. Vacancies shall be filled in the same manner as the original appointments.

(2) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) Six members of the commission shall constitute a quorum for the purpose of conducting business. [1993 c 261 § 2; 1987 c 249 § 3; 1981 c 338 § 15; 1975-'76 2nd ex.s. c 34 § 130; 1971 ex.s. c 34 § 3.]

Additional notes found at www.leg.wa.gov

43.115.040 Officers and employees—Rules and regulations. The commission shall have the following powers and duties:

(1) Elect one of its members to serve as chair;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Examine and define issues pertaining to the rights and needs of Hispanics, and make recommendations to the governor and state agencies for changes in programs and laws;

(4) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of Hispanics;

(5) Advise the legislature on issues of concern to the Hispanic community;

(6) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for Hispanics; and

(7) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [2009 c 549 § 5170; 1993 c 261 § 3; 1987 c 249 § 4; 1971 ex.s. c 34 § 4.]

43.115.045 Executive director. (1) The commission shall be administered by an executive director, who shall be appointed by and serve at the pleasure of the governor. The governor shall base the appointment of the executive director on recommendations of the commission. The salary of the executive director shall be set by the governor.

(2) The executive director shall employ a staff, who shall be state employees pursuant to Title 41 RCW. The executive director shall prescribe the duties of the staff as may be necessary to implement the purposes of this chapter. [1993 c 261 § 4.]

43.115.060 Relationships with local government and private industry. In carrying out its duties the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity

nity for Hispanics in government, education and employment. [1987 c 249 § 6; 1971 ex.s. c 34 § 6.]

43.115.900 Severability—1971 ex.s. c 34. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 34 § 7.]

Chapter 43.117 RCW STATE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS

Sections

43.117.010	Legislative declaration.
43.117.020	Definitions.
43.117.030	Commission established.
43.117.040	Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director.
43.117.050	Officers—Rules and regulations—Meetings.
43.117.060	Staff.
43.117.070	Duties of commission—State agencies to give assistance.
43.117.080	Promotion of equal opportunity and benefits.
43.117.090	Hearings—Information to be furnished to commission.
43.117.100	Gifts, grants and endowments—Receipt and expenditure.
43.117.110	Asian Pacific American heritage month.
43.117.120	Filipino American history month.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.117.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature finds that Asian Pacific Americans have unique and special problems. It is the purpose of this chapter to improve the well-being of Asian Pacific Americans by insuring their access to participation in the fields of government, business, education, and other areas. The legislature is particularly concerned with the plight of those Asian Pacific Americans who, for economic, linguistic, or cultural reasons, find themselves disadvantaged or isolated from American society and the benefits of equal opportunity. The legislature aims to help these and all Asian Pacific Americans achieve full equality and inclusion in American society. The legislature further finds that it is necessary to aid Asian Pacific Americans in obtaining governmental services in order to promote the health, safety, and welfare of all the residents of this state. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [2000 c 236 § 1; 1995 c 67 § 2; 1983 c 119 § 1; 1974 ex.s. c 140 § 1.]

Additional notes found at www.leg.wa.gov

43.117.020 Definitions. As used in this chapter unless the context indicates otherwise:

(1) "Asian Pacific Americans" include persons of Japanese, Chinese, Filipino, Korean, Samoan, Guamanian, Thai, Vietnamese, Cambodian, Laotian, and other South East Asian, South Asian, and Pacific Island ancestry.

(2) "Commission" means the Washington state commission on Asian Pacific American affairs in the office of the governor. [1995 c 67 § 3; 1974 ex.s. c 140 § 2.]

43.117.030 Commission established. There is established a Washington state commission on Asian Pacific

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American affairs in the office of the governor. The now existing Asian American advisory council shall become the commission upon enactment of this chapter. The council may transfer all office equipment, including files and records to the commission. [1995 c 67 § 4; 1974 ex.s. c 140 § 3.]

43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director. (1) The commission shall consist of twelve members appointed by the governor. In making such appointments, the governor shall give due consideration to recommendations submitted to him or her by the commission. The governor may also consider nominations of members made by the various Asian American organizations in the state. The governor shall consider nominations for membership based upon maintaining a balanced distribution of Asian-ethnic, geographic, sex, age, and occupational representation, where practicable.

(2) Appointments shall be for three years except in case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. Vacancies shall be filled in the same manner as the original appointments.

(3) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(4) Seven members shall constitute a quorum for the purpose of conducting business.

(5) The governor shall appoint an executive director based upon recommendations made by the council. [2009 c 549 § 5171; 1982 c 68 § 1; 1981 c 338 § 16; 1975-'76 2nd ex.s. c 34 § 131; 1974 ex.s. c 140 § 4.]

Additional notes found at www.leg.wa.gov

43.117.050 Officers—Rules and regulations—Meetings. The commission shall:

(1) Elect one of its members to serve as chair; and also such other officers as necessary to form an executive committee;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Meet at the call of the chair or the call of a majority of its members, but in no case less often than once during any three month period;

(4) Be authorized to appoint such citizen task force as it deems appropriate. [2009 c 549 § 5172; 1974 ex.s. c 140 § 5.]

43.117.060 Staff. The executive director shall employ a staff who shall be state employees pursuant to Title 41 RCW and prescribe their duties as may be necessary to implement the purposes of this chapter. [1974 ex.s. c 140 § 6.]

43.117.070 Duties of commission—State agencies to give assistance. (1) The commission shall examine and define issues pertaining to the rights and needs of Asian Pacific Americans, and make recommendations to the governor and state agencies with respect to desirable changes in program and law.

(2) The commission shall advise such state government agencies on the development and implementation of compre-

hensive and coordinated policies, plans, and programs focusing on the special problems and needs of Asian Pacific Americans.

(3) The commission shall advise the legislature on issues of concern to the Asian Pacific American community.

(4) The commission shall coordinate and assist with statewide celebrations during the fourth week of Asian Pacific American Heritage Month that recognize the contributions to the state by Asian Pacific Americans in the arts, sciences, commerce, and education.

(5) The commission shall coordinate and assist educational institutions, public entities, and private organizations with celebrations of Korean-American day that recognize the contributions to the state by Korean-Americans in the arts, sciences, commerce, and education.

(6) Each state department and agency shall provide appropriate and reasonable assistance to the commission as needed in order that the commission may carry out the purposes of this chapter. [2018 c 143 § 2; 2007 c 19 § 3; 2000 c 236 § 3; 1995 c 67 § 5; 1974 ex.s. c 140 § 7.]

Findings—2007 c 19: See note following RCW 1.16.050.

Additional notes found at www.leg.wa.gov

43.117.080 Promotion of equal opportunity and benefits. In carrying out its duties, the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity and benefits to Asian Pacific Americans in government, education, economic development, employment, and services. [1995 c 67 § 6; 1974 ex.s. c 140 § 8.]

43.117.090 Hearings—Information to be furnished to commission. (1) The commission may for the purpose of carrying out the purposes of this chapter hold such public hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the commission may deem advisable. The commission may administer oaths or affirmations to witnesses appearing before it. At least five members of the commission must be present to conduct a hearing.

(2) The commission may secure directly from any department or agency of the state information necessary to enable it to carry out the purposes of this chapter. Upon request of the chair of the commission, the head of such department or agency shall furnish such information to the commission. [2009 c 549 § 5173; 1974 ex.s. c 140 § 9.]

43.117.100 Gifts, grants and endowments—Receipt and expenditure. The commission shall have authority to receive such gifts, grants, and endowments from public or private sources as may be made from time to time in trust or otherwise for the use and benefit of the purposes of the commission and to expend the same or any income therefrom according to the terms of said gifts, grants, or endowments. [1974 ex.s. c 140 § 10.]

43.117.110 Asian Pacific American heritage month. The legislature declares that:

(1) May of each year will be known as Asian Pacific American heritage month;

(2) The fourth week of May is designated as a time for people of this state to celebrate the contributions to the state by Asian Pacific Americans in the arts, sciences, commerce, and education; and

(3) Educational institutions, public entities, and private organizations are encouraged to designate time for appropriate activities in commemoration of the lives, history, achievements, and contributions of Asian Pacific Americans. [2000 c 236 § 2.]

Additional notes found at www.leg.wa.gov

43.117.120 Filipino American history month. October of each year will be known as Filipino American history month. Each October is designated as a time for people of this state to commemorate the contributions of Filipino Americans to the history and heritage of Washington state and the United States. [2019 c 283 § 2.]

Findings—Intent—2019 c 283: "The legislature finds that the writings and teachings of American history have often overlooked the role of people of color, among them the history of Filipino Americans, whose heritage spans a colonial, political, economic, and cultural relationship with the United States. The legislature also finds that the earliest documented proof of Filipino presence in the continental United States was on October 18, 1587, when the first "Luzones Indios" set foot in Morro Bay, California. The Filipino American national historical society recognizes the year of 1763 as the date of the first permanent Filipino settlement in the United States in St. Malo Parrish, Louisiana. Subsequent waves of migration followed, and today Filipino Americans continue to make a lasting impact on the history and heritage of Washington state and the United States. In recognition of the critical economic, cultural, social, and other notable contributions by Filipino Americans to Washington state and the United States, the legislature has proclaimed October as Filipino American history month since 2010.

The legislature further finds that the prominence of Filipino and Filipino American population in Washington state warrants official commemoration of the history and heritage of Filipino Americans. Therefore the legislature intends to designate the month of October as Filipino American history month, a period of commemoration that highlights the contributions of Filipino Americans to Washington state and the United States." [2019 c 283 § 1.]

Chapter 43.119 RCW WOMEN'S COMMISSION

Sections

43.119.005	Legislative declaration.
43.119.010	Commission established.
43.119.020	Membership—Terms—Vacancies—Expenses—Quorum.
43.119.030	Executive director—Duties.
43.119.040	Duties of commission—State agencies to give assistance.
43.119.050	Powers of commission.
43.119.060	Interagency committee of state employed women—Staffing support.

43.119.005 Legislative declaration. The legislature finds that it is important to achieve equal opportunity for all of its citizens. The legislature finds that women face unique problems and needs. For economic, social, and historical reasons, a disproportionate number of women find themselves disadvantaged or isolated from the benefits of equal opportunity. It is the purpose of this chapter to improve the well-being of women, by enabling them to participate fully in all fields of endeavor, assisting them in obtaining governmental services, and promoting equal compensation and fairness in employment for women. The legislature also believes that addressing women's issues and improving the well-being of women will have a positive impact on larger societal issues. The legislature further finds that the development of public

policy and the efficient delivery of governmental services to meet the needs of women can be improved by establishing a focal point in state government for the interests of women. Therefore, the legislature deems it necessary to establish in statute the Washington state women's commission to further these purposes. The commission shall address issues relevant to the problems and needs of women, such as domestic violence, child care, child support, sexual discrimination, sexual harassment, equal compensation and job pathways opportunities in employment, and the specific needs of women of color. [2018 c 98 § 1.]

43.119.010 Commission established. The Washington state women's commission is established in the office of the governor. The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall set the salary of the executive director. The executive director shall employ the staff of the commission. [2018 c 98 § 2.]

43.119.020 Membership—Terms—Vacancies—Expenses—Quorum. (1) The Washington state women's commission shall consist of nine members appointed by the governor with the advice and consent of the senate.

(2) The governor shall consider nominations for membership based upon maintaining a balanced and diverse distribution of ethnic, geographic, gender, sexual orientation, age, socioeconomic status, and occupational representation, where practicable.

(3) All commission members shall serve at the pleasure of the governor, but in no case may any member serve more than three years without formal reappointment by the governor. All legislative advisory members shall serve for a two-year term and the position of any legislative advisory member shall be deemed vacated whenever such member ceases to be a member of the house from which the member was appointed. Of the persons initially appointed by the governor to the commission, three shall be appointed to serve one year, three to serve two years, and three to serve three years. Upon expiration of such terms, subsequent appointments shall be for three years. Any vacancies occurring in the membership of the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointments.

(4) Two members of the senate, one from each of the two major political parties, appointed by the president of the senate, and two members of the house of representatives, one from each of the two major political parties, appointed by the speaker of the house of representatives, shall serve as advisory members.

(5)(a) Nonlegislative members shall be reimbursed for expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

(b) Legislative members shall be reimbursed for expenses incurred in the performance of their duties in accordance with RCW 44.04.120.

(6) A simple majority of the commission's membership constitutes a quorum for the purpose of conducting business. [2018 c 98 § 3.]

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43.119.030 Executive director—Duties. The [executive] director of the Washington state women's commission shall:

(1) Monitor state legislation and advocate for legislation affecting women;

(2) Work with state agencies to assess programs and policies that affect women;

(3) Coordinate with the minority commissions and human rights commission to address issues of mutual concern; and

(4) Work as a liaison between the public and private sector to eliminate barriers to women's economic equity. [2018 c 98 § 4.]

43.119.040 Duties of commission—State agencies to give assistance. (1) The Washington state women's commission shall have the following duties:

(a) Actively recruit and maintain a list of names of qualified women to fill vacancies on various boards and commissions;

(b) Provide a clearinghouse for information regarding both state and federal legislation as it relates to the purpose of this chapter;

(c) Identify and define specific needs of women of color and provide recommendations for addressing those needs in the biennial report to the legislature and governor under (j) of this subsection;

(d) Consult with state agencies regarding the effect of agency policies, procedures, practices, laws, and administrative rules on the unique problems and needs of women. The commission shall also advise such state agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on those problems and needs;

(e) Provide resource and referral information to agencies and the public. The commission may gather data and disseminate information to the public in order to implement the purposes of this chapter;

(f) Hold public hearings to gather input on issues related to the unique problems and needs of women. The commission must include in the biennial report submitted under (j) of this subsection the input received and recommendations for addressing the problems and needs discussed at the public hearings;

(g) Advocate for removal of legal and social barriers for women;

(h) Review best practices for sexual harassment policies and training and provide recommendations to state agencies as they update their sexual harassment policies. The commission shall also maintain a file of sexual harassment policies that meet high quality standards and make these files available for agency use;

(i) Review and make recommendations to the legislature on strategies to increase the number of women serving on for-profit corporate boards with gross income of five million dollars or more; and

(j) Submit a report to the appropriate committees of the legislature and the governor every two years detailing the commission's activities. The report submitted must be in electronic format pursuant to RCW 43.01.036.

(2) State agencies must provide appropriate and reasonable assistance to the commission as needed, including gathering data and information, in order for the commission to carry out the purpose of this chapter. [2018 c 98 § 5.]

43.119.050 Powers of commission. The Washington state women's commission shall have the following powers:

(1) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and to expend the same or any income therefrom according to their terms and the purpose of this chapter. The commission's executive director shall make a report of such funds received from private sources to the office of financial management on a regular basis. Such funds received from private sources shall not be applied to reduce or substitute for the commission's budget as appropriated by the legislature, but shall be applied and expended toward projects and functions authorized by this chapter that were not funded by the legislature.

(2) In carrying out its duties, the commission may establish such relationships with public and private institutions, local governments, private industry, community organizations, and other segments of the general public as may be needed to promote equal opportunity for women in government, education, economic security, employment, and services.

(3) The commission may adopt rules and regulations pursuant to chapter 34.05 RCW as shall be necessary to implement the purpose of this chapter. [2018 c 98 § 6.]

43.119.060 Interagency committee of state employed women—Staffing support. The Washington state women's commission must provide staffing support to the interagency committee of state employed women, a volunteer organization that aims to better the lives of state employees by advising the governor and agencies on policies that affect state-employed women. [2018 c 98 § 7.]

Chapter 43.121 RCW

COUNCIL FOR CHILDREN AND FAMILIES

(Formerly: Council for the prevention of child abuse and neglect)

Sections

43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund.

43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund. Contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58A RCW from persons, associations, or corporations and funds generated through the issuance of the "Keep Kids Safe" license plate under chapter 46.18 RCW, shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the secretary of the department of children, youth, and families beginning July 1, 2012. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88

RCW, but no appropriation shall be required to permit expenditure of such funds. [2019 c 148 § 36; 2018 c 58 § 14; 2011 1st sp.s. c 32 § 5; 2011 c 171 § 9; 2005 c 53 § 4; 1987 c 351 § 5; 1984 c 261 § 3; 1982 c 4 § 10.]

Effective date—Rule-making authority—2019 c 148: See RCW 70.58A.901 and 70.58A.902.

Effective date—2018 c 58: See note following RCW 28A.655.080.

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Legislative findings—1987 c 351: "The legislature finds that children are society's most valuable resource and that child abuse and neglect is a threat to the physical, mental, and emotional health of children. The legislature further finds that assisting community-based private nonprofit and public organizations, agencies, or school districts in identifying and establishing needed primary prevention programs will reduce the incidence of child abuse and neglect, and the necessity for costly subsequent intervention in family life by the state. Child abuse and neglect prevention programs can be most effectively and economically administered through the use of trained volunteers and the cooperative efforts of the communities, citizens, and the state. The legislature finds that the Washington council for prevention of child abuse is an effective counsel for reducing child abuse but limited resources have prevented the council from funding promising prevention concepts statewide.

It is the intent of the legislature to establish a cost-neutral revenue system for the children's trust fund which is designed to fund primary prevention programs and innovative prevention related activities such as research or public awareness campaigns. The fund shall be supported through revenue created by the sale of heirloom birth certificates. This concept has proven to be a cost-effective approach to funding child abuse prevention in the state of Oregon. The legislature believes that this is an innovative way of using private dollars to supplement our public dollars to reduce child abuse and neglect." [1987 c 351 § 1.]

Additional notes found at www.leg.wa.gov

Chapter 43.130 RCW

ECONOMIC IMPACT ACT—CLOSING OF STATE FACILITIES

Sections

43.130.010 Purpose.
43.130.020 Definitions.
43.130.030 Excluded employment and employees.
43.130.040 Benefits.
43.130.050 Eligibility—Conditions.
43.130.060 Reimbursement of public employees' retirement system.
43.130.910 Emergency—Operative dates—Termination of benefits.

43.130.010 Purpose. When either for fiscal reasons, obsolescence or other extraordinary reasons, it becomes necessary to close a state facility, as defined by RCW 43.130.020(2), the state has a responsibility to provide certain benefits to affected employees.

It is the purpose of this chapter to establish an economic impact act for the state of Washington to meet the emergency situation now in existence for state employees affected by the closure of state facilities, as defined in RCW 43.130.020. [1973 2nd ex.s. c 37 § 1.]

43.130.020 Definitions. For purposes of this chapter:

(1) "Employees" includes those persons performing services for the state on a salaried or hourly basis including, but not limited to, persons in "classified service" as defined in *RCW 41.06.020(3) and those persons defined as exempt from the state civil service laws pursuant to RCW 41.06.070.

(2) The term "closure of a state facility" means the termination of services being provided by a facility operated by the department of social and health services or in conjunction

with the department of natural resources, when such facility is terminated for fiscal reasons, obsolescence, or other extraordinary reasons.

(3) "Classified employees" means those employees performing classified service as defined in *RCW 41.06.020(3). [1973 2nd ex.s. c 37 § 2.]

*Reviser's note: RCW 41.06.020 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (3) to subsection (5).

43.130.030 Excluded employment and employees.

Excluded employment and excluded employees under this chapter include, but are not limited to, the following:

(1) State employment related to a single project under a program separately financed by a grant of nonstate funds, federal funds or state funds, or by a combination of such funding, which is designed to provide training or employment opportunities, expertise or additional manpower related to the project or which, because of the nature of the project funding requirements, is not intended as a permanent program.

(2) Activities at least seventy-five percent federally funded by a categorical grant for a specific purpose and any other activities terminated because of actions taken by the federal government or other funding sources other than the state of Washington in eliminating or substantially limiting funding sources, except to the extent that the federal government or such other funding sources may permit the use of nonstate funds to pay for any employee benefits authorized pursuant to this chapter.

(3) The following categories of employees are excluded from benefits under this chapter:

(a) employees refusing transfer to vacant positions in the same or a like job classification and at not more than one full range lower than the same salary range;

(b) classified employees having other than permanent status in the classified service;

(c) employees having less than three years' consecutive state service as an employee, except that such employees shall nonetheless be eligible for the benefits provided in subsections (1), (2), (4) and (5) of RCW 43.130.040.

(d) nothing in this chapter shall affect any other rights currently held by classified employees regarding reduction in force procedures and subsequent reemployment. [1973 2nd ex.s. c 37 § 3.]

43.130.040 Benefits. In order to carry out the purposes of this chapter, the state shall take every reasonable step at its disposal to provide alternative employment and to minimize the economic loss of state employees affected by the closure of state facilities. Affected state employees shall be paid benefits as specified in this section.

(1) Relocation expenses covering the movement of household goods, incurred by the necessity of an employee moving his or her domicile to be within reasonable commuting distance of a new jobsite, shall be paid by the state to employees transferring to other state employment by reason of the closure of a facility.

(2) Relocation leave shall be allowed up to five working days' leave with pay for the purpose of locating new residence in the area of employment.

(3) The state shall reimburse the transferring employee to the extent of any unavoidable financial loss suffered by an employee who sells his or her home at a price less than the true and fair market value as determined by the county assessor not exceeding three thousand dollars: PROVIDED, That this right of reimbursement must be exercised, and sale of the property must be accomplished, within a period of two years from the date other state employment is accepted.

(4) For employees in facilities which have been terminated who do not choose to participate in the transfer program set forth in the preceding subsections, the following terminal pay plan shall be available:

(a) For qualifying employees, for each one year of continuous state service, one week (five working days) of regular compensation shall be provided.

(b) Regular compensation as used in subsection (a) hereof shall include salary compensation at the rate being paid to the employees at the time operation of the facility is terminated.

(c) Terminal pay as set forth in subsections (a) and (b) hereof shall be paid to the employee at the termination of the employees last month of employment or within thirty days after *the effective date of this 1973 act, whichever is later: PROVIDED, That from the total amount of terminal pay, the average sum of unemployment compensation that the qualifying employee is eligible to receive multiplied by the total number of weeks of terminal pay minus one week shall be deducted.

(d) Those employees electing the early retirement benefits as stated in subsection (5) of this section shall not be eligible for the terminal pay provisions as set forth in this subsection.

(e) Those employees who are reemployed by the state during the period they are receiving terminal pay pursuant to subsections (a), (b) and (c) of this section shall reimburse the state for that portion of the terminal pay covered by the period of new employment.

(5) As an option to transferring to other state employment an employee may elect early retirement under the following conditions:

(a) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of fifty-five years, with at least five years creditable service, shall be immediately eligible to retire, with no actuarial reduction in the amount of his or her pension benefit.

(b) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of forty-five years, with at least five years creditable service, shall be immediately eligible to retire with an actuarial reduction in the amount of his or her pension benefit of three percent for each complete year that such employee is under fifty-five years of age.

(c) Employees who elect to retire pursuant to RCW 41.40.180 shall be eligible to retire while on authorized leave of absence not in excess of one hundred and twenty days.

(d) Employees who elect to retire under the provisions of this section shall not be eligible for any retirement benefit in a year following a year in which their employment income was in excess of six thousand dollars. This six thousand dollars base shall be adjusted annually beginning in 1974 by

such cost of living adjustments as are applied by the public employees' retirement system to membership retirement benefits. The public employees retirement system board shall adopt necessary rules and regulations to implement the provisions of this subsection. [2009 c 549 § 5176; 1973 2nd ex.s. c 37 § 4.]

***Reviser's note:** The effective date of 1973 2nd ex.s. c 37 was September 26, 1973.

Public employees' retirement system: Chapter 41.40 RCW.

Termination date of benefits under subsection (3) of this section: RCW 43.130.910.

43.130.050 Eligibility—Conditions. Notwithstanding any other provision of this chapter employees affected by the closure of a state facility as defined in RCW 43.130.020(2) who were employed as of May 1, 1973 at such facility, and who are still in employment of the state or on an official leave of absence as of September 26, 1973, who would otherwise qualify for the enumerated benefits of this chapter are hereby declared eligible for such benefits under the following conditions:

(1) Such employee must be actively employed by the state of Washington or on an official leave of absence on September 26, 1973, and unless the early retirement or terminal pay provisions of this chapter are elected, continue to be employed or to be available for employment in a same or like job classification at not less than one full range lower than the same salary range for a period of at least thirty days thereafter;

(2) Such employee must give written notice of his or her election to avail himself or herself of such benefits within thirty days after the *passage of this 1973 act or upon closure of the institution, whichever is later. [2009 c 549 § 5177; 1973 2nd ex.s. c 37 § 5.]

***Reviser's note:** The effective date of 1973 2nd ex.s. c 37 was September 26, 1973, due to the emergency clause contained in section 9, codified as RCW 43.130.910.

1973 2nd ex.s. c 37 (Engrossed Substitute Senate Bill No. 2603) passed the Senate September 14, 1973, passed the House September 13, 1973, and was approved by the governor September 26, 1973.

Employees to whom chapter is operative: RCW 43.130.910.

43.130.060 Reimbursement of public employees' retirement system. In order to reimburse the public employees' retirement system for any increased costs occasioned by the provisions of this chapter which affect the retirement system, the director of retirement systems shall, within thirty days of the date upon which any affected employee elects to take advantage of the retirement provisions of this chapter, determine the increased present and future cost to the retirement system of such employee's election. Upon the determination of the amount necessary to offset the increased cost, the director of retirement systems shall bill the department of enterprise services for the amount of the increased cost: PROVIDED, That such billing shall not exceed eight hundred sixty-one thousand dollars. Such billing shall be paid by the department as, and the same shall be, a proper charge against any moneys available or appropriated to the department for this purpose. [2011 1st sp.s. c 43 § 458; 1973 2nd ex.s. c 37 § 6.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

[Title 43 RCW—page 626]

43.130.910 Emergency—Operative dates—Termination of benefits. This 1973 act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions and shall take effect immediately: PROVIDED HOWEVER, That each of the provisions of this 1973 act shall be operative and in effect only for employees of those state facilities closed after May 1, 1973 and prior to September 14, 1974: PROVIDED FURTHER, That benefits under section 4(3) of this 1973 act shall be available until September 14, 1975. [1973 2nd ex.s. c 37 § 9.]

Chapter 43.131 RCW WASHINGTON SUNSET ACT OF 1977

Sections

GENERAL PROVISIONS

- 43.131.010 Short title.
- 43.131.020 Findings.
- 43.131.030 Definitions.
- 43.131.040 Reestablishment of entity scheduled for termination—Review.
- 43.131.051 Program and fiscal review—Reports.
- 43.131.061 Sunset termination and review—Performance measures—Minimum period for sunset termination.
- 43.131.071 Scope of review—Recommendations to the legislature.
- 43.131.090 Termination of entity—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts.
- 43.131.100 Termination of entity—Pending business—Savings.
- 43.131.110 Committees—Reference to include successor.
- 43.131.130 Legislature—Powers unaffected by enactment of chapter.
- 43.131.150 Termination of entities—Review under Sunset Act.

ENTITIES SCHEDULED FOR SUNSET

- 43.131.393 Underground storage tank program—Termination.
- 43.131.394 Underground storage tank program—Repeal.
- 43.131.400 Program review—Rangeland damage.
- 43.131.407 Alternative public works contracting procedures—Termination.
- 43.131.408 Alternative public works contracting procedures—Repeal.
- 43.131.417 Joint center for aerospace technology innovation—Termination.
- 43.131.418 Joint center for aerospace technology innovation—Repeal.
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- 43.131.420 Medicaid fraud false claims act—Repeal.
- 43.131.421 Mercury-containing lights product stewardship program—Termination.
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- 43.131.423 Drug take-back program—Termination.
- 43.131.424 Drug take-back program—Repeal.
- 43.131.425 Office of the corrections ombuds—Termination.
- 43.131.426 Office of the corrections ombuds—Repeal.
- 43.131.427 Washington dual enrollment scholarship pilot program—Termination.
- 43.131.428 Washington dual enrollment scholarship pilot program—Repeal.

CONSTRUCTION

- 43.131.900 Expiration of RCW 43.131.010 through 43.131.150—Exception.

Termination of tax preferences: Chapter 43.136 RCW.

GENERAL PROVISIONS

43.131.010 Short title. (Expires June 30, 2025.) This chapter may be known and cited as the Washington Sunset Act. [1990 c 297 § 1; 1977 ex.s. c 289 § 1.]

43.131.020 Findings. (Expires June 30, 2025.) The state legislature finds that state entities may fail to deliver services as effectively and efficiently as is expected by the gen-

eral public and as originally contemplated by the legislature. It further finds that state government actions have produced a substantial increase in numbers of entities, growth of programs, and proliferation of rules, and that the entire process has evolved without sufficient legislative and executive oversight, regulatory accountability, or a system of checks and balances. The legislature further finds that by establishing a system for the termination, continuation, or modification of state entities, coupled with a system of scheduled review of such entities, it will be in a better position to: Evaluate the need for the continued existence of existing and future state entities; assess the effectiveness and performance of agencies, boards, commissions, and programs; and ensure public accountability. The legislature recognizes that the executive branch shares in this duty and responsibility to assure that state government operates in an efficient, orderly, and responsive manner. [2000 c 189 § 1; 1977 ex.s. c 289 § 2.]

43.131.030 Definitions. (Expires June 30, 2025.) As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise.

(1) "Entity" includes every state office, department, board, commission, unit or subunit, and agency of the state, and where provided by law, programs and activities involving less than the full responsibility of a state agency. "Entity" also includes any part of the Revised Code of Washington scheduled for repeal, expiration, or program termination.

(2) "Person" includes every natural person, firm, partnership, corporation, association, or organization. [2000 c 189 § 2; 1983 1st ex.s. c 27 § 1; 1977 ex.s. c 289 § 3.]

43.131.040 Reestablishment of entity scheduled for termination—Review. (Expires June 30, 2025.) Any state entity scheduled for termination by the processes provided in this chapter may be reestablished by the legislature for a specified period of time or indefinitely. The legislature may again review the state entity in a manner consistent with the provisions of this chapter and reestablish, modify, or consolidate such state entity or allow it to be terminated. [2000 c 189 § 3; 1983 1st ex.s. c 27 § 2; 1977 ex.s. c 289 § 4.]

43.131.051 Program and fiscal review—Reports. (Expires June 30, 2025.) The joint legislative audit and review committee shall conduct a program and fiscal review of any entity scheduled for termination under this chapter. This program and fiscal review shall be completed and a preliminary report prepared during the calendar year prior to the date established for termination. These reports shall be prepared in the manner set forth in RCW 44.28.071 and 44.28.075. Upon completion of its preliminary report, the joint legislative audit and review committee shall transmit copies of the report to the office of financial management and any affected entity. The final report shall include the response, if any, of the affected entity and the office of financial management in the same manner as set forth in RCW 44.28.088, except the affected entity and the office of financial management shall have sixty days to respond to the report. The joint legislative audit and review committee shall transmit the final report to the legislature, to the state entity

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affected, to the governor, and to the state library. [2000 c 189 § 4.]

43.131.061 Sunset termination and review—Performance measures—Minimum period for sunset termination. (Expires June 30, 2025.) (1) Any entity may be scheduled for sunset termination and review under this chapter by law.

(2) An entity scheduled for sunset termination shall establish performance measures, as required under subsection (3) of this section, and must be evaluated, in part, in terms of the results. The entity has the burden of demonstrating the extent to which performance results have been achieved. The sunset termination legislation shall name a lead entity, if more than one entity is impacted by scheduled termination. The affected entity or lead entity has the responsibility for developing and implementing a data collection plan and submitting the resulting performance information to the joint legislative audit and review committee.

(3) An entity shall develop performance measures and a data collection plan and submit them for review and comment to the joint legislative audit and review committee within one year of the effective date of the legislation establishing the sunset termination.

(4) Unless specified otherwise, sunset terminations under this chapter shall be a minimum of seven years. The joint legislative audit and review committee shall complete its review in the year prior to the date of termination. [2000 c 189 § 5.]

43.131.071 Scope of review—Recommendations to the legislature. (Expires June 30, 2025.) (1) In conducting the review of an entity, the joint legislative audit and review committee shall determine the scope and objectives of the review and consider, but not be limited to, the following factors, if applicable:

(a) The extent to which the entity has complied with legislative intent;

(b) The extent to which the entity is operating in an efficient and economical manner which results in optimum performance;

(c) The extent to which the entity is operating in the public interest by controlling costs;

(d) The extent to which the entity duplicates the activities of other entities or of the private sector;

(e) The extent to which the entity is meeting the performance measures developed under RCW 43.131.061; and

(f) The possible impact of the termination or modification of the entity.

(2) After completing the review under subsection (1) of this section, the committee shall make its recommendations to the legislature. [2000 c 189 § 6.]

43.131.090 Termination of entity—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts. (Expires June 30, 2025.) Unless the legislature specifies a shorter period of time, a terminated entity shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: PROVIDED, That the powers and authority of the

entity shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated entities classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the director of financial management pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of enterprise services;

(3) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated entity shall be repealed, without further action by the entity, at the end of the period provided in this section, unless assumed and reaffirmed by the entity assuming the related legal responsibilities of the terminated entity;

(5) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct. [2015 3rd sp.s. c 1 § 322; (2011 1st sp.s. c 43 § 459 expired June 30, 2015); (2002 c 354 § 230 expired June 30, 2015); 2000 c 189 § 7; 1993 c 281 § 54; 1983 1st ex.s. c 27 § 4; 1977 ex.s. c 289 § 9.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

43.131.100 Termination of entity—Pending business—Savings. (Expires June 30, 2025.) This chapter shall not affect the right to institute or prosecute any cause of action by or against an entity terminated pursuant to this chapter if the cause of action arose prior to the end of the period provided in RCW 43.131.090. Such causes of action may be instituted, prosecuted, or defended in the name of the state of Washington by the office of the attorney general. Any hearing or other proceeding pending before an entity to be terminated and not completed before the end of the period provided in RCW 43.131.090, may be completed by the entity assuming the responsibilities of the terminated entity. [2000 c 189 § 8; 1977 ex.s. c 289 § 10.]

43.131.110 Committees—Reference to include successor. (Expires June 30, 2025.) Any reference in this chapter to a committee of the legislature including the joint legislative audit and review committee shall also refer to the successor of that committee. [1996 c 288 § 47; 1977 ex.s. c 289 § 11.]

43.131.130 Legislature—Powers unaffected by enactment of chapter. (Expires June 30, 2025.) Nothing in this chapter or RCW 43.06.010 shall prevent the legislature from abolishing or modifying an entity scheduled for termination prior to the entity's established termination date or

from abolishing or modifying any other entity. [2000 c 189 § 9; 1977 ex.s. c 289 § 13.]

43.131.150 Termination of entities—Review under Sunset Act. (Expires June 30, 2025.) The entities scheduled for termination under this chapter shall be subject to all of the processes provided in this chapter. [2000 c 189 § 10; 1983 1st ex.s. c 27 § 8; 1979 c 99 § 1.]

ENTITIES SCHEDULED FOR SUNSET

43.131.393 Underground storage tank program—Termination. The underground storage tank program shall be terminated on July 1, 2029, as provided in RCW 43.131.394. [2018 c 194 § 1; 2007 c 147 § 10; 1998 c 155 § 7.]

43.131.394 Underground storage tank program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2030:

- (1) RCW 70A.355.005 and 2007 c 147 s 1 & 1989 c 346 s 1;
- (2) RCW 70A.355.010 and 2013 c 144 s 53, 2011 c 298 s 39, 2007 c 147 s 2, 1998 c 155 s 1, & 1989 c 346 s 2;
- (3) RCW 70A.355.020 and 2013 c 144 s 54, 2011 c 298 s 40, 2007 c 147 s 3, 1998 c 155 s 2, & 1989 c 346 s 3;
- (4) RCW 70A.355.030 and 1998 c 155 s 3 & 1989 c 346 s 5;
- (5) RCW 70A.355.040 and 2007 c 147 s 4, 1998 c 155 s 4, & 1989 c 346 s 6;
- (6) RCW 70A.355.050 and 1998 c 155 s 5 & 1989 c 346 s 7;
- (7) RCW 70A.355.060 and 2007 c 147 s 5 & 1989 c 346 s 8;
- (8) RCW 70A.355.070 and 2007 c 147 s 6, 1995 c 403 s 639, & 1989 c 346 s 9;
- (9) RCW 70A.355.080 and 2007 c 147 s 7, 1998 c 155 s 6, & 1989 c 346 s 10;
- (10) RCW 70A.355.090 and 1991 sp.s. c 13 s 72 & 1989 c 346 s 11;
- (11) RCW 70A.355.100 and 2007 c 147 s 8, 1991 c 83 s 1, & 1989 c 346 s 12;
- (12) RCW 70A.355.900 and 1989 c 346 s 15;
- (13) RCW 70A.355.901 and 1989 c 346 s 14; and
- (14) RCW 70A.355.902 and 1989 c 346 s 18. [2020 c 20 s 1051; 2018 c 194 s 2; 2007 c 147 s 11; 1998 c 155 s 8.]

43.131.400 Program review—Rangeland damage. The joint legislative audit and review committee must conduct a program review, as provided in this chapter, of the program to reimburse landowners for damage to rangeland used for grazing or browsing of domestic livestock caused by deer and elk, established in sections 1 through 3, chapter 274, Laws of 2001. The review must be completed by January 1, 2004. [2001 c 274 § 4.]

Additional notes found at www.leg.wa.gov

43.131.407 Alternative public works contracting procedures—Termination. The alternative public works contracting procedures under chapter 39.10 RCW shall be termi-

nated June 30, 2031, as provided in RCW 43.131.408. [2021 c 230 § 21; 2013 c 222 § 21; 2007 c 494 § 506.]

Effective date—2021 c 230: See note following RCW 39.10.210.

Effective date—2013 c 222: See note following RCW 39.10.210.

Additional notes found at www.leg.wa.gov

43.131.408 Alternative public works contracting procedures—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2032:

(1) RCW 39.10.200 and 2010 1st sp.s. c 21 s 2, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and 2021 c 230 s 1, 2019 c 212 s 1, 2014 c 42 s 1, & 2013 c 222 s 1;

(3) RCW 39.10.220 and 2021 c 230 s 2, 2013 c 222 s 2, 2007 c 494 s 102, & 2005 c 377 s 1;

(4) RCW 39.10.230 and 2021 c 230 s 3, 2013 c 222 s 3, 2010 1st sp.s. c 21 s 3, 2009 c 75 s 1, 2007 c 494 s 103, & 2005 c 377 s 2;

(5) RCW 39.10.240 and 2021 c 230 s 4, 2013 c 222 s 4, & 2007 c 494 s 104;

(6) RCW 39.10.250 and 2021 c 230 s 5, 2019 c 212 s 2, 2013 c 222 s 5, 2009 c 75 s 2, & 2007 c 494 s 105;

(7) RCW 39.10.260 and 2013 c 222 s 6 & 2007 c 494 s 106;

(8) RCW 39.10.270 and 2019 c 212 s 3, 2017 c 211 s 1, 2013 c 222 s 7, 2009 c 75 s 3, & 2007 c 494 s 107;

(9) RCW 39.10.280 and 2014 c 42 s 2, 2013 c 222 s 8, & 2007 c 494 s 108;

(10) RCW 39.10.290 and 2007 c 494 s 109;

(11) RCW 39.10.300 and 2021 c 230 s 6, 2019 c 212 s 4, 2013 c 222 s 9, 2009 c 75 s 4, & 2007 c 494 s 201;

(12) RCW 39.10.320 and 2019 c 212 s 5, 2013 c 222 s 10, 2007 c 494 s 203, & 1994 c 132 s 7;

(13) RCW 39.10.330 and 2021 c 230 s 7, 2019 c 212 s 6, 2014 c 19 s 1, 2013 c 222 s 11, 2009 c 75 s 5, & 2007 c 494 s 204;

(14) RCW 39.10.340 and 2014 c 42 s 3, 2013 c 222 s 12, & 2007 c 494 s 301;

(15) RCW 39.10.350 and 2021 c 230 s 8, 2014 c 42 s 4, & 2007 c 494 s 302;

(16) RCW 39.10.360 and 2021 c 230 s 9, 2014 c 42 s 5, 2013 c 222 s 13, 2009 c 75 s 6, & 2007 c 494 s 303;

(17) RCW 39.10.370 and 2021 c 230 s 10, 2014 c 42 s 6, & 2007 c 494 s 304;

(18) RCW 39.10.380 and 2021 c 230 s 11, 2013 c 222 s 14, & 2007 c 494 s 305;

(19) RCW 39.10.385 and 2021 c 230 s 12, 2013 c 222 s 15, & 2010 c 163 s 1;

(20) RCW 39.10.390 and 2021 c 230 s 13, 2014 c 42 s 7, 2013 c 222 s 16, & 2007 c 494 s 306;

(21) RCW 39.10.400 and 2021 c 230 s 14, 2013 c 222 s 17, & 2007 c 494 s 307;

(22) RCW 39.10.410 and 2007 c 494 s 308;

(23) RCW 39.10.420 and 2019 c 212 s 7, 2017 c 136 s 1, & 2016 c 52 s 1;

(24) RCW 39.10.430 and 2021 c 230 s 15, 2019 c 212 s 8, & 2007 c 494 s 402;

(25) RCW 39.10.440 and 2021 c 230 s 16, 2019 c 212 s 9, 2015 c 173 s 1, 2013 c 222 s 19, & 2007 c 494 s 403;

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(26) RCW 39.10.450 and 2019 c 212 s 10, 2012 c 102 s 2, & 2007 c 494 s 404;

(27) RCW 39.10.460 and 2021 c 230 s 17, 2012 c 102 s 3, & 2007 c 494 s 405;

(28) RCW 39.10.470 and 2019 c 212 s 11, 2014 c 19 s 2, 2005 c 274 s 275, & 1994 c 132 s 10;

(29) RCW 39.10.480 and 1994 c 132 s 9;

(30) RCW 39.10.490 and 2021 c 230 s 18, 2013 c 222 s 20, 2007 c 494 s 501, & 2001 c 328 s 5;

(31) RCW 39.10.900 and 1994 c 132 s 13;

(32) RCW 39.10.901 and 1994 c 132 s 14;

(33) RCW 39.10.903 and 2007 c 494 s 510;

(34) RCW 39.10.904 and 2007 c 494 s 512;

(35) RCW 39.10.905 and 2007 c 494 s 513; and

(36) RCW 39.10.908 and 2021 c 230 s 19. [2021 c 230 § 22; 2019 c 212 § 13. Prior: 2017 c 211 § 2; 2017 c 136 § 2; prior: 2014 c 42 § 8; 2014 c 19 § 3; prior: 2013 c 222 § 22; 2013 c 186 § 2; 2012 c 102 § 4; 2010 1st sp.s. c 21 § 5; 2007 c 494 § 507.]

Effective date—2021 c 230: See note following RCW 39.10.210.

Effective date—2013 c 222: See note following RCW 39.10.210.

Intent—2010 1st sp.s. c 21: See note following RCW 39.10.200.

Additional notes found at www.leg.wa.gov

43.131.417 Joint center for aerospace technology innovation—Termination. The joint center for aerospace technology innovation shall be terminated July 1, 2030, as provided in RCW 43.131.418. [2020 c 306 § 1; 2013 2nd sp.s. c 24 § 2; 2012 c 242 § 3.]

43.131.418 Joint center for aerospace technology innovation—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2031:

(1) RCW 28B.155.010 and 2014 c 174 s 3, 2014 c 112 s 102, & 2012 c 242 s 1;

(2) RCW 28B.155.020 and 2012 c 242 s 2; and

(3) RCW 28B.155.030 and 2020 c 306 s 3. [2020 c 306 § 2; 2014 c 112 § 122; 2013 2nd sp.s. c 24 § 3; 2012 c 242 § 4.]

43.131.419 Medicaid fraud false claims act—Termination. The qui tam provisions of the medicaid fraud false claims act as established under chapter 74.66 RCW shall be terminated on June 30, 2023, as provided in RCW 43.131.420. [2016 c 147 § 1; 2012 c 241 § 216.]

Intent—Finding—2012 c 241: See note following RCW 74.66.010.

43.131.420 Medicaid fraud false claims act—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2024:

(1) RCW 74.66.050 and 2012 c 241 s 205;

(2) RCW 74.66.060 and 2012 c 241 s 206;

(3) RCW 74.66.070 and 2012 c 241 s 207;

(4) RCW 74.66.080 and 2012 c 241 s 208; and

(5) RCW 74.66.130 and 2012 c 241 s 213. [2016 c 147 § 2; 2012 c 241 § 217.]

Intent—Finding—2012 c 241: See note following RCW 74.66.010.

43.131.421 Mercury-containing lights product stewardship program—Termination. The mercury-containing

lights product stewardship program as established under chapter 70A.505 RCW is terminated July 1, 2025, as provided in RCW 43.131.422. [2021 c 65 § 47; 2014 c 119 § 7.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Finding—2014 c 119: See note following RCW 70A.505.020.

43.131.422 Mercury-containing lights product stewardship program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2026:

(1) RCW 70A.505.010 (Findings—Purpose) and 2010 c 130 s 1;

(2) RCW 70A.505.020 (Definitions) and 2014 c 119 s 2 & 2010 c 130 s 2;

(3) RCW 70A.505.030 (Product stewardship program) and 2014 c 119 s 3 & 2010 c 130 s 3;

(4) RCW 70A.505.040 (Submission of proposed product stewardship plans—Department to establish rules—Public review—Plan update—Annual report) and 2017 c 254 s 2, 2014 c 119 s 4, & 2010 c 130 s 4;

(5) RCW 70A.505.050 (Financing the mercury-containing light recycling program) and 2017 c 254 s 1, 2014 c 119 s 5, & 2010 c 130 s 5;

(6) RCW 70A.505.060 (Collection and management of mercury) and 2010 c 130 s 6;

(7) RCW 70A.505.070 (Collectors of unwanted mercury-containing lights—Duties) and 2010 c 130 s 7;

(8) RCW 70A.505.090 (Producers must participate in an approved product stewardship program) and 2010 c 130 s 9;

(9) RCW 70A.505.100 (Written warning—Penalty—Appeal) and 2010 c 130 s 10;

(10) RCW 70A.505.110 (Department's website to list producers participating in product stewardship plan—Required participation in a product stewardship plan—Written warning—Penalty—Rules—Exemptions) and 2010 c 130 s 11;

(11) RCW 70A.505.120 (Product stewardship programs account) and 2017 c 254 s 3 & 2010 c 130 s 13;

(12) RCW 70A.505.130 (Adoption of rules—Report to the legislature—Invitation to entities to comment on issues—Estimate of statewide recycling rate for mercury-containing lights—Mercury vapor barrier packaging) and 2010 c 130 s 14;

(13) RCW 70A.505.140 (Application of chapter to the Washington utilities and transportation commission) and 2010 c 130 s 15;

(14) RCW 70A.505.150 (Application of chapter to entities regulated under chapter 70A.300 RCW) and 2010 c 130 s 16;

(15) RCW 70A.505.900 (Chapter liberally construed) and 2010 c 130 s 17;

(16) RCW 70A.505.901 (Severability—2010 c 130) and 2010 c 130 s 21; and

(17) RCW 70A.505.160 and 2014 c 119 s 6. [2021 c 65 § 48; 2017 c 254 § 4; 2014 c 119 § 8.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Finding—2014 c 119: See note following RCW 70A.505.020.

43.131.423 Drug take-back program—Termination.

The authorization for drug take-back programs created in chapter 196, Laws of 2018 and chapter 155, Laws of 2021 shall be terminated on January 1, 2029, as provided in RCW 43.131.424. [2021 c 155 § 6; 2018 c 196 § 26.]

Findings—Intent—2021 c 155: See note following RCW 69.48.010.

43.131.424 Drug take-back program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2030:

(1) RCW 69.48.010 and 2021 c 155 s 1 & 2018 c 196 s 1;
 (2) RCW 69.48.020 and 2018 c 196 s 2;
 (3) RCW 69.48.030 and 2018 c 196 s 3;
 (4) RCW 69.48.040 and 2018 c 196 s 4;
 (5) RCW 69.48.050 and 2021 c 155 s 3 & 2018 c 196 s 5;
 (6) RCW 69.48.060 and [2021 c 65 s 64 &] 2018 c 196 s

6;
 (7) RCW 69.48.070 and 2021 c 155 s 4 & 2018 c 196 s 7;
 (8) RCW 69.48.080 and 2018 c 196 s 8;
 (9) RCW 69.48.090 and 2018 c 196 s 9;
 (10) RCW 69.48.100 and 2018 c 196 s 10;
 (11) RCW 69.48.110 and 2018 c 196 s 11;
 (12) RCW 69.48.120 and 2021 c 155 s 5 & 2018 c 196 s

12;
 (13) RCW 69.48.130 and 2018 c 196 s 13;
 (14) RCW 69.48.140 and 2018 c 196 s 14;
 (15) RCW 69.48.150 and 2018 c 196 s 15;
 (16) RCW 69.48.160 and 2018 c 196 s 16;
 (17) RCW 69.48.170 and 2018 c 196 s 17;
 (18) RCW 69.48.180 and 2018 c 196 s 18;
 (19) RCW 69.48.190 and 2018 c 196 s 19; and
 (20) RCW 69.48.200 and 2018 c 196 s 20. [2021 c 155 § 7; 2018 c 196 § 27.]

Findings—Intent—2021 c 155: See note following RCW 69.48.010.

43.131.425 Office of the corrections ombuds—Termination. The office of the corrections ombuds is terminated July 1, 2028, as provided in RCW 43.131.426. [2018 c 270 § 10.]

43.131.426 Office of the corrections ombuds—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2029:

(1) RCW 43.06C.005 and 2018 c 270 s 1;
 (2) RCW 43.06C.020 and 2018 c 270 s 2;
 (3) RCW 43.06C.010 and 2018 c 270 s 3;
 (4) RCW 43.06C.030 and 2018 c 270 s 4;
 (5) RCW 43.06C.040 and 2018 c 270 s 5;
 (6) RCW 43.06C.050 and 2018 c 270 s 6;
 (7) RCW 43.06C.060 and 2018 c 270 s 7; and
 (8) RCW 43.06C.070 and 2018 c 270 s 8. [2018 c 270 § 11.]

43.131.427 Washington dual enrollment scholarship pilot program—Termination. The Washington dual enrollment scholarship pilot program is terminated July 1, 2025, as provided in RCW 43.131.428. [2019 c 176 § 3.]

43.131.428 Washington dual enrollment scholarship pilot program—Repeal. The following acts or parts of acts,

as now existing or hereafter amended, are each repealed, effective July 1, 2026:

RCW 28B.76.730 and 2019 c 176 s 1. [2019 c 176 § 4.]

CONSTRUCTION

43.131.900 Expiration of RCW 43.131.010 through 43.131.150—Exception. RCW 43.131.010 through 43.131.150 expire June 30, 2025, unless extended by law for an additional fixed period of time. [2013 c 44 § 2; 2000 c 189 § 12; 1988 c 17 § 2; 1982 c 223 § 16; 1979 c 22 § 3; 1977 ex.s. c 289 § 16.]

Finding—Intent—2013 c 44: "The legislature finds that the sunset review process allows the legislature to evaluate the need for the continued existence of agencies and programs, to assess the effectiveness and performance of these agencies and programs, and to ensure public accountability. It is the intent of the legislature to continue using this important accountability tool." [2013 c 44 § 1.]

Chapter 43.132 RCW

FISCAL IMPACT OF PROPOSED LEGISLATION ON POLITICAL SUBDIVISIONS

Sections

- 43.132.010 Intent.
- 43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.
- 43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations.
- 43.132.040 Fiscal notes—Transmission of copies to designated recipients.
- 43.132.050 Fiscal notes—Transmission of copies upon request.
- 43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility.
- 43.132.060 Legislative action upon or validity of measures not affected.
- 43.132.810 Local government fiscal notes—Fiscal impact of selected laws on local governments—Biennial report.

Legislative fiscal notes: Chapter 43.88A RCW.

43.132.010 Intent. It is the intent of this chapter to create a uniform and coordinated procedure to determine the fiscal impact of proposed legislation on units of local government. [1977 ex.s. c 19 § 1.]

43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports. The director of financial management or the director's designee shall, in cooperation with appropriate legislative committees and legislative staff, establish a mechanism for the determination of the fiscal impact of proposed legislation which if enacted into law would directly or indirectly increase or decrease revenues received or expenditures incurred by counties, cities, towns, or any other units of local government. For purposes of this section, "unit of local government" includes school districts to the extent that the proposed legislation affects school districts in the same manner as it affects other units of local government. Where proposed legislation uniquely affects school districts, a school district fiscal note must be prepared under the process established in RCW 28A.300.0401. The office of financial management shall, when requested by a member of the state legislature, report in writing as to such fiscal impact and said report shall be known as a "fiscal note".

Such fiscal notes shall indicate by fiscal year the total impact on the local governments involved for the first two

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years the legislation would be in effect and also a cumulative six year forecast of the fiscal impact. Where feasible and applicable, the fiscal note also shall indicate the fiscal impact on each individual county or on a representative sampling of cities, towns, or other units of local government.

A fiscal note as defined in this section shall be provided only upon request of any member of the state legislature. A request for a fiscal note on legislation shall be considered to be a continuing request for a fiscal note on any formal alteration of the legislation in the form of amendments to the legislation that are adopted by a committee or a house of the legislature or a substitute version of such legislation that is adopted by a committee and preparation of the fiscal note on the prior version of the legislation shall stop, unless the legislator requesting the fiscal note specifies otherwise or the altered version is first adopted or enacted in the last week of a legislative session.

Fiscal notes shall be completed within one week of the request unless a longer time period is allowed by the requesting legislator. In the event a fiscal note has not been completed within one week of a request, a daily report shall be prepared for the requesting legislator by the director of financial management which report summarizes the progress in preparing the fiscal note. If the request is referred to the director of commerce, the daily report shall also include the date and time such referral was made. [2011 c 140 § 2; 2000 c 182 § 2; 1995 c 399 § 79; 1984 c 125 § 16; 1979 c 151 § 149; 1977 ex.s. c 19 § 2.]

Intent—2000 c 182: "It is the intent of the legislature to enhance the local government fiscal note process by providing for updated fiscal information on pending legislation and to establish a process for a more comprehensive report on the fiscal impacts to local governments arising from laws that have been enacted. Further, it is the intent of the legislature that the varying effects of legislation on different local governments be recognized. This act is enacted in recognition of the responsibilities imposed by RCW 43.135.060." [2000 c 182 § 1.]

43.132.030 Designation of department of community, trade, and economic development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations. The director of financial management is hereby empowered to designate the *director of community, trade, and economic development as the official responsible for the preparation of fiscal notes authorized and required by this chapter. It is the intent of the legislature that when necessary the resources of other state agencies, appropriate legislative staffs, and the various associations of local government may be employed in the development of such fiscal notes. [1995 c 399 § 80; 1985 c 6 § 10; 1979 c 151 § 150; 1977 ex.s. c 19 § 3.]

***Reviser's note:** The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

43.132.040 Fiscal notes—Transmission of copies to designated recipients. When a fiscal note is prepared and approved as to form and completeness by the director of financial management, the director shall transmit copies immediately to:

- (1) The requesting legislator;
- (2) With respect to proposed legislation held by the senate, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairperson of the

ways and means committee or equivalent committees with jurisdiction over matters normally considered by a ways and means committee, the chairperson of the local government committee or equivalent committee that considers local government matters, and the secretary of the senate; and

(3) With respect to proposed legislation held by the house of representatives, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairpersons of the ways and means committee or equivalent committees with jurisdiction over matters normally considered by a ways and means committee, the chairperson of the local government committee or equivalent committee that considers local government matters, and the chief clerk of the house of representatives. [2000 c 182 § 3; 1986 c 158 § 18; 1979 c 151 § 151; 1977 ex.s. c 19 § 4.]

Intent—2000 c 182: See note following RCW 43.132.020.

43.132.050 Fiscal notes—Transmission of copies upon request. The office of financial management may make additional copies of the fiscal note available to members of the legislature and others on request.

At the request of any member of the senate or house of representatives, whichever is considering the proposed legislation, and unless it is prohibited by the rules of the body, copies of the fiscal note or a synopsis thereof shall be placed on the members' desks at the time the proposed legislation takes its place on the second reading calendar.

Whenever proposed legislation accompanied by such a fiscal note is passed by either the senate or the house of representatives, the fiscal note shall be transmitted with the bill to the other house. [1986 c 158 § 19; 1979 c 151 § 152; 1977 ex.s. c 19 § 5.]

43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility. When the fiscal note indicates that a bill or resolution would require expenditures of funds by a county, city, town, or other unit of local government, the legislature shall determine the state's fiscal responsibility and shall make every effort to appropriate the funds or provide the revenue generating authority necessary to implement the legislation during the ensuing biennium. [1979 ex.s. c 112 § 2.]

43.132.060 Legislative action upon or validity of measures not affected. (1) Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature.

(2) Subsection (1) of this section shall not alter the responsibilities of RCW 43.135.060. [2000 c 182 § 4; 1977 ex.s. c 19 § 6.]

Intent—2000 c 182: See note following RCW 43.132.020.

43.132.810 Local government fiscal notes—Fiscal impact of selected laws on local governments—Biennial report. The office of financial management, in consultation with the *department of community, trade, and economic

development, shall prepare a report for the legislature on or before December 31st of every even-numbered year on local government fiscal notes, and reports on the fiscal impacts on local governments arising from selected laws, that were prepared over the preceding two-year period. [2000 c 182 § 6.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Intent—2000 c 182: See note following RCW 43.132.020.

Chapter 43.133 RCW WASHINGTON SUNRISE ACT

Sections

43.133.010	Legislative declaration.
43.133.020	Definitions.
43.133.030	Sunrise notes—Procedure.
43.133.040	Sunrise notes—Contents.
43.133.050	Sunrise notes—Preparation.
43.133.060	Sunrise notes—Filing.
43.133.070	Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district.
43.133.080	Effect of chapter on validity of legislative action.
43.133.900	Short title.

43.133.010 Legislative declaration. Because of the proliferation of boards and special purpose districts, the legislature recognizes the necessity of developing a uniform and coordinated procedure for determining the need for these new units of government. [1987 c 342 § 1.]

43.133.020 Definitions. (1) For purposes of this chapter, "special purpose district" means any unit of local government other than a city, town, county, or school district.

(2) For purposes of this chapter, "board" means a board, commission, council, committee or task force. [1987 c 342 § 2.]

43.133.030 Sunrise notes—Procedure. The office of financial management and the *department of community, trade, and economic development shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of sunrise notes on the expected impact of bills and resolutions that authorize the creation of new boards and new types of special purpose districts. [1995 c 399 § 81; 1987 c 342 § 3.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.133.040 Sunrise notes—Contents. Sunrise notes shall include:

(1) The purpose and expected impact of the new board or special purpose district;

(2) The powers and duties of the new board or special purpose district;

(3) The direct or potential duplication of the powers and duties of existing boards or special purpose districts; and

(4) Other information relevant to the need for the new board or special purpose district. [1987 c 342 § 4.]

43.133.050 Sunrise notes—Preparation. (1) The office of financial management shall prepare sunrise notes for legislation concerning the creation of new boards. The *department of community, trade, and economic develop-

ment shall prepare sunrise notes for legislation creating new types of special purpose districts.

(2) A sunrise note shall be prepared for all executive and agency request legislation that creates a board or special purpose district.

(3) The office of financial management or the *department of community, trade, and economic development shall also provide a sunrise note at the request of any committee of the legislature. [1995 c 399 § 82; 1987 c 342 § 5.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.133.060 Sunrise notes—Filing. Sunrise notes shall be filed with:

(1) The committee to which the bill or resolution was referred upon introduction in the house of origin;

(2) The senate committee on ways and means or its successor;

(3) The house of representatives committee on ways and means or its successor;

(4) The senate governmental operations committee or its successor; and

(5) The house of representatives state government committee or its successor. [1987 c 342 § 6.]

43.133.070 Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district. Legislative standing committees shall forward notification and the sunrise note, if available, to the senate or house of representatives ways and means committee and the senate governmental operations committee or the house of representatives state government committee whenever a bill providing for the creation of a new board or special purpose district is voted out of the standing committee. [1987 c 342 § 7.]

43.133.080 Effect of chapter on validity of legislative action. Nothing in this chapter prevents either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any sunrise note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1987 c 342 § 8.]

43.133.900 Short title. This chapter shall be known as the Washington sunrise act. [1987 c 342 § 9.]

Chapter 43.135 RCW

STATE EXPENDITURES LIMITATIONS

Sections

43.135.025	Fiscal growth factor.
43.135.031	Bills raising taxes or fees—Cost analysis—Press release—Notice of hearings—Updated analyses.
43.135.034	Tax legislation—Two-thirds approval—Taxes on intangible property.
43.135.041	Tax legislation—Advisory vote—Duties of the attorney general and secretary of state—Exemption.
43.135.045	Education construction fund—Appropriation conditions.
43.135.055	Fee restrictions—Exception.
43.135.060	Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs.

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43.135.902 Short title—1994 c 2.

43.135.025 Fiscal growth factor. (1) Each November, the economic and revenue forecast council shall calculate the fiscal growth factor for each fiscal year of the current biennium and the ensuing biennium.

(2) The definitions in this subsection apply throughout this chapter unless the context clearly requires otherwise.

(a) "Fiscal growth factor" means the average growth in state personal income for the prior ten fiscal years.

(b) "General fund" means the state general fund. [2020 c 218 § 3; 2015 3rd sp.s. c 29 § 3; 2009 c 479 § 35; 2005 c 72 § 4; (2006 c 56 § 7 expired July 1, 2007); 2000 2nd sp.s. c 2 § 1; 1994 c 2 § 2 (Initiative Measure No. 601, approved November 2, 1993).]

Effective date—2020 c 218: See note following RCW 43.88.030.

Effective date—2015 3rd sp.s. c 29: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 6, 2015]." [2015 3rd sp.s. c 29 § 5.]

Findings—2015 3rd sp.s. c 29: "The legislature finds that under the state supreme court's decision and subsequent orders in *McCleary v. State*, the state has an Article IX constitutional obligation to make significant enhancements to the program of basic education over the next biennia. The legislature further finds that the state expenditure limit was first enacted in 1993 as part of Initiative Measure No. 601, and that Washington has undergone many changes in the intervening years, including a recession during which state general fund revenues and expenditures actually declined despite population growth and increased demands for public services. Finally, the legislature finds that the new state requirements for a four-year balanced budget and budget outlook process provide a better tool for balancing and controlling the state budget while fulfilling constitutional requirements than does the state expenditure limit process. For these reasons, during the biennia in which the legislature is phasing in its Article IX obligations and for the ensuing biennium, the legislature is temporarily suspending the state expenditure limit." [2015 3rd sp.s. c 29 § 1.]

Findings—2005 c 72: "The legislature finds that the citizens of the state benefit from a state expenditure limit that ensures that the state budget operates with stability and predictability, while encouraging the establishment of budget priorities and a periodic review of state programs and the delivery of state services. A state expenditure limit can prevent budgeting crises that can occur because of increased spending levels during periods of revenue surplus followed by drastic reductions in state services in lean years. The citizens of the state are best served by an expenditure limit that keeps pace with the growth in the state's economy yet ensures budget discipline and taxpayer protection. For these reasons, the legislature finds that modifications to the state expenditure limit, after ten years of experience following the initial implementation of Initiative Measure No. 601, will recognize the economic productivity of the state's economy and better balance the needs of the citizens for essential government services with the obligation of the legislature for strict spending accountability and protection of its taxpayers." [2005 c 72 § 1.]

Additional notes found at www.leg.wa.gov

43.135.031 Bills raising taxes or fees—Cost analysis—Press release—Notice of hearings—Updated analyses. (1) For any bill introduced in either the house of representatives or the senate that raises taxes as defined by RCW 43.135.034 or increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via email to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its website. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source,

a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on a bill that raises taxes as defined by RCW 43.135.034 or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via email to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its website. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes as defined by RCW 43.135.034 or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via email to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its website. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office email address.

(5) For the purposes of this section, "news media" means any member of the press or media organization, including newspapers, radio, and television, that signs up with the office of financial management to receive the public press releases by email.

(6) For the purposes of this section, "the public" means any person, group, or organization that signs up with the office of financial management to receive the public press releases by email. [2013 c 1 § 5 (Initiative Measure No. 1185, approved November 6, 2012); 2016 c 1 § 4 (Initiative Measure No. 1366, approved November 3, 2015); 2008 c 1 § 2 (Initiative Measure No. 960, approved November 6, 2007).]

Reviser's note: The Washington state supreme court ruled in *Lee v. State*, 185 Wn.2d 608, 374 P.3d 157 (2016) that Initiative Measure No. 1366 (chapter 1, Laws of 2016) is in violation of the single-subject rule of Article

II, section 19 of the state Constitution and is therefore void in its entirety. This section is published without the amendment contained in Initiative Measure No. 1366.

Intent—Construction—Short title—2013 c 1 (Initiative Measure No. 1185): See notes following RCW 43.135.034.

Findings—Intent—2008 c 1 (Initiative Measure No. 960): "Washington has a long history of public interest in tax increases. The people have clearly and consistently illustrated their ongoing and passionate desire to ensure that taxpayers are protected. The people find that even without raising taxes, the government consistently receives revenue growth many times higher than the rate of inflation every year. With this measure, the people intend to protect taxpayers by creating a series of accountability procedures to ensure greater legislative transparency, broader public participation, and wider agreement before state government takes more of the people's money. This measure protects taxpayers and relates to tax and fee increases imposed by state government. This measure would require publication of cost projections, information on public hearings, and legislators' sponsorship and voting records on bills increasing taxes and fees, allow either two-thirds legislative approval or voter approval for tax increases, and require advisory votes on tax increases blocked from citizen referendum.

The intent of sections 2, 3, and 4 of this act: The people want a thorough, independent analysis of any proposed increase in taxes and fees. The people find that legislators too often do not know the costs to the taxpayers for their tax and fee increases and this fiscal analysis by the office of financial management will provide better, more accessible information. The people want a user-friendly method to track the progress of bills increasing taxes and fees, finding that transparency and openness leads to more public involvement and better understanding. The people want information on public hearings and legislators' sponsorship and voting records on bills increasing taxes and fees and want easy access to contact information of legislators so the people's voice can be heard. Section 2(5) and (6) of this act are intended to provide active, engaged citizens with the opportunity to be notified of the status of bills increasing taxes and fees. Such a notification system is already being provided by the state supreme court with regard to judicial rulings. Intent of RCW 43.88A.020: The cost projection reports required by section 2 of this act will simplify and facilitate the creation of fiscal notes. The people want the office of financial management to fully comply with the cost projections and other requirements of section 2 [of this act] on bills increasing taxes or fees before fiscal notes. Cost projections and the other information required by section 2 [of this act] are critically important for the legislature, the media, and the public to receive before fiscal notes.

The intent of section 5 of this act: The two-thirds requirement for raising taxes has been on the books since 1993 and the people find that this policy has provided the legislature with a much stronger incentive to use existing revenues more cost-effectively rather than reflexively raising taxes. The people want this policy continued and want it to be clear that tax increases inside and outside the general fund are subject to the two-thirds threshold. If the legislature cannot receive a two-thirds vote in the house of representatives and senate to raise taxes, the Constitution provides the legislature with the option of referring the tax increase to the voters for their approval or rejection at an election using a referendum bill. The people expect the legislature to respect, follow, and abide by the law, on the books for thirteen years, to not raise taxes in excess of the state expenditure limit without two-thirds legislative approval and a vote of the people. Intent of RCW 43.135.035(5): When it comes to enactment of tax increases exceeding the state expenditure limit, the legislature has, in recent years, shifted money between funds to get around the voter approval requirement for tax increases above the state expenditure limit as occurred in 2005 with sections 1607 and 1701 of Engrossed Substitute Senate Bill No. 6090. RCW 43.135.035(5) is intended to clarify the law so that the effective taxpayer protection of requiring voter approval for tax increases exceeding the state expenditure limit is not circumvented.

The intent of sections 6 through 13 of this act: Our state Constitution guarantees to the people the right of referendum. In recent years, however, the legislature has thwarted the people's constitutional right to referendum by excessive use of the emergency clause. In 2005, for example, the legislature approved five hundred twenty-three bills and declared ninety-eight of them, nearly twenty percent, "emergencies," insulating them all from the constitution's guaranteed right to referendum. The courts' reviews of emergency clauses have resulted in inconsistent decisions regarding the legality of them in individual cases. The people find that, if they are not allowed to vote on a tax increase, good public policy demands that at least the legislature should be aware of the voters' view of individual tax increases. An advisory vote of the people at least gives the legislature the views of the voters and gives the voters information about the bill increasing taxes and provides the voters

with legislators' names and contact information and how they voted on the bill. The people have a right to know what is happening in Olympia. Intent of section 6(1) of this act: If the legislature blocks a citizen referendum through the use of an emergency clause or a citizen referendum on the tax increase is not certified for the next general election ballot, then an advisory vote on the tax increase is required. Intent of section 6(4) of this act: If there's a binding vote on the ballot, there's no need for a nonbinding vote.

The intent of section 14 of this act: The people want to return the authority to impose or increase fees from unelected officials at state agencies to the duly elected representatives of the legislature or to the people. The people find that fee increases should be debated openly and transparently and up-or-down votes taken by our elected representatives so the people are given the opportunity to hold them accountable at the next election." [2008 c 1 § 1 (Initiative Measure No. 960, approved November 6, 2007).]

Additional notes found at www.leg.wa.gov

43.135.034 Tax legislation—Two-thirds approval—Taxes on intangible property. (1)(a) Any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

(b) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

(2) The state or any political subdivision of the state may not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993. [2020 c 218 § 4; 2015 3rd sp.s. c 44 § 421; 2013 c 1 § 2 (Initiative Measure No. 1185, approved November 6, 2012); 2011 c 1 § 2 (Initiative Measure No. 1053, approved November 2, 2010).]

Reviser's note: As to the constitutionality of the supermajority requirement in subsection (1) of this section, see *League of Educ. Voters v. State*, 176 Wn.2d 808, 295 P.3d 743 (2013).

Effective date—2020 c 218: See note following RCW 43.88.030.

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

Intent—2013 c 1 (Initiative Measure No. 1185): "This initiative should deter the governor and the legislature from sidestepping, suspending, or repealing any of Initiative 1053's policies which voters approved by a huge margin in 2010. The people insist that tax increases receive either two-thirds legislative approval or voter approval and fee increases receive a simple majority vote. These important policies ensure that taxpayers will be protected and that taking more of the people's money will always be an absolute last resort." [2013 c 1 § 1 (Initiative Measure No. 1185, approved November 6, 2012).]

Construction—2013 c 1 (Initiative Measure No. 1185): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2013 c 1 § 7 (Initiative Measure No. 1185, approved November 6, 2012).]

Short title—2013 c 1 (Initiative Measure No. 1185): "This act is known and may be cited as "Save The 2/3's Vote For Tax Increases (Again) Act."" [2013 c 1 § 9 (Initiative Measure No. 1185, approved November 6, 2012).]

Intent—2011 c 1 (Initiative Measure No. 1053): "This initiative should deter the governor and the legislature from sidestepping, suspending, or repealing any of Initiative 960's policies in the 2010 legislative session. But regardless of legislative action taken during the 2010 legislative session concerning Initiative 960's policies, the people intend, by the passage of this initiative, to require either two-thirds legislative approval or voter approval for tax increases and majority legislative approval for fee increases. These important policies ensure that taking more of the people's money will always

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be an absolute last resort." [2011 c 1 § 1 (Initiative Measure No. 1053, approved November 2, 2010).]

Additional notes found at www.leg.wa.gov

43.135.041 Tax legislation—Advisory vote—Duties of the attorney general and secretary of state—Exemption. (1)(a) After July 1, 2011, if legislative action raising taxes as defined by RCW 43.135.034 is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under this chapter.

(b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of this chapter.

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by this chapter. Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

(3) For the purposes of this section, "blocked from a public vote" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under this chapter. [2013 c 1 § 6 (Initiative Measure No. 1185, approved November 6, 2012); 2016 c 1 § 5 (Initiative Measure No. 1366, approved November 3, 2015); 2010 c 4 § 3; 2008 c 1 § 6 (Initiative Measure No. 960, approved November 6, 2007).]

Reviser's note: The Washington state supreme court ruled in *Lee v. State*, 185 Wn.2d 608, 374 P.3d 157 (2016) that Initiative Measure No. 1366 (chapter 1, Laws of 2016) is in violation of the single-subject rule of Article II, section 19 of the state Constitution and is therefore void in its entirety. This section is published without the amendment contained in Initiative Measure No. 1366.

Intent—Construction—Short title—2013 c 1 (Initiative Measure No. 1185): See notes following RCW 43.135.034.

Intent—2010 c 4: "In order to preserve funding for education, public safety, health care, and safety net services for elderly, disabled, and vulnerable people, it is the intent of the legislature to provide a means to stabilize revenue collections." [2010 c 4 § 1.]

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

Additional notes found at www.leg.wa.gov

43.135.045 Education construction fund—Appropriation conditions. The education construction fund is hereby created in the state treasury.

(1) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction.

(2) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection must result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and does not affect any subsequent fiscal period.

(3) Notwithstanding subsection (2) of this section, during the 2015-2017 fiscal biennium, the fund may be used for maintenance and operations at community and technical colleges. [2016 sp.s. c 36 § 934; 2013 2nd sp.s. c 9 § 5. Prior: 2012 2nd sp.s. c 5 § 1; 2012 1st sp.s. c 10 § 5; 2011 1st sp.s. c 50 § 950; 2010 1st sp.s. c 27 § 5; prior: 2009 c 564 § 939; 2009 c 479 § 37; prior: 2007 c 520 § 6035; 2007 c 484 § 5; prior: 2005 c 518 § 931; (2005 c 488 § 920 expired June 30, 2007); 2005 c 314 § 401; 2005 c 72 § 6; 2003 1st sp.s. c 25 § 920; prior: (2003 1st sp.s. c 26 § 919 expired June 30, 2005); (2003 1st sp.s. c 26 § 918 expired June 30, 2005); (2002 c 33 § 2 expired June 30, 2003); prior: 2001 c 3 § 9 (Initiative Measure No. 728, approved November 7, 2000); 2000 2nd sp.s. c 5 § 1; 2000 2nd sp.s. c 2 § 3; 1994 c 2 § 3 (Initiative Measure No. 601, approved November 2, 1993).]

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Intent—Effective dates—2013 2nd sp.s. c 9: See notes following RCW 28A.150.220.

Effective date—2012 2nd sp.s. c 5: "Sections 1 and 3 through 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2012." [2012 2nd sp.s. c 5 § 14.]

Purpose—Construction—2012 1st sp.s. c 10: See note following RCW 84.52.0531.

Findings—Intent—2010 1st sp.s. c 27: See note following RCW 28B.76.526.

Findings—Effective dates—2005 c 72: See notes following RCW 43.135.025.

Short title—Purpose—Intent—Construction—Effective dates—2001 c 3 (Initiative Measure No. 728): See notes following RCW 67.70.240.

Additional notes found at www.leg.wa.gov

43.135.055 Fee restrictions—Exception. (1) A fee may only be imposed or increased in any fiscal year if approved with a simple majority vote in both the house of representatives and the senate and must be subject to the accountability procedures required by RCW 43.135.031.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments. [2013 c 1 § 4 (Initiative Measure No. 1185, approved November 6, 2012); 2011 c 1 § 5 (Initiative Measure No. 1053, approved November 2, 2010); 2008 c 1 § 14 (Initiative Measure No. 960, approved November 6, 2007); 2001 c 314 § 19; 1997 c 303 § 2; 1994 c 2 § 8 (Initiative Measure No. 601, approved November 2, 1993).]

Intent—Construction—Short title—2013 c 1 (Initiative Measure No. 1185): See notes following RCW 43.135.034.

Intent—Construction—Short title—2011 c 1 (Initiative Measure No. 1053): See notes following RCW 43.135.034.

Findings—Intent—Construction—Severability—Subheadings and part headings not law—Short title—Effective date—2008 c 1 (Initiative Measure No. 960): See notes following RCW 43.135.031.

Findings—Construction—2001 c 314: See RCW 15.100.010 and 15.100.900.

Findings—1997 c 303: "The legislature finds that Initiative Measure No. 601, adopted by the people of the state of Washington, limits fee increases by requiring that any increases in fees beyond the levels expressly allowed under the initiative receive the prior approval of the legislature. The legislature finds that a more direct system of allowing the people to control fee increases predates Initiative Measure No. 601. This system developed in agricultural communities and provides these communities with direct control of the fees of the agricultural commodity commissions they created to serve them. The system requires those who pay the assessments levied by commodity commissions and boards to approve of assessment increases by referendum. It is at the heart of the statutes and marketing orders and agreements under which agricultural commodity commissions and boards are created. The legislature does not believe that the adoption of Initiative Measure No. 601 was intended to dilute in any manner this more direct control held by the people governed by commodity commissions or boards over the fees they pay in the form of such assessments. Therefore, the legislature defers to this more direct control of these assessments so long as the authority to approve or disapprove of increases in these assessments is by referendum held directly by those who pay them." [1997 c 303 § 1.]

Toll increases in excess of fiscal growth factor: RCW 47.46.120.

Additional notes found at www.leg.wa.gov

43.135.060 Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs. (1) After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels. Reimbursement by the state may be made by: (a) A specific appropriation; or (b) increases in state distributions of revenue to political subdivisions occurring after January 1, 1998.

(2) If by order of any court, or legislative enactment, the costs of a federal or local government program are transferred to or from the state, the otherwise applicable state expenditure limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(3) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any political subdivision or transferred to or from the state.

(4) Subsection (1) of this section does not apply to the costs incurred for voting devices or machines under RCW 29A.12.150. [2015 c 53 § 71; 1998 c 321 § 15 (Referendum Bill No. 49, approved November 3, 1998); 1994 c 2 § 5 (Initiative Measure No. 601, approved November 2, 1993); 1990 2nd ex.s. c 1 § 601; 1990 c 184 § 2; 1980 c 1 § 6 (Initiative Measure No. 62, approved November 6, 1979).]

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Local government reimbursement claims: RCW 4.92.280.

Additional notes found at www.leg.wa.gov

43.135.902 Short title—1994 c 2. This chapter may be known and cited as the taxpayer protection act. [1994 c 2 § 10 (Initiative Measure No. 601, approved November 2, 1993).]

Chapter 43.136 RCW

TERMINATION OF TAX PREFERENCES

Sections

43.136.011	Findings—Intent.
43.136.021	"Tax preference" defined.
43.136.035	Citizen commission for performance measurement of tax preferences.
43.136.045	Schedule for review of tax preferences—Expedited review—Citizen input.
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43.136.011 Findings—Intent. The legislature recognizes that tax preferences are enacted to meet objectives which are determined to be in the public interest. However, some tax preferences may not be efficient or equitable tools for the achievement of current public policy objectives. Given the changing nature of the economy and tax structures of other states, the legislature finds that periodic performance audits of tax preferences are needed to determine if their continued existence will serve the public interest. The legislature further finds that tax preferences that are enacted for economic development purposes must demonstrate growth in full-time family-wage jobs with health and retirement benefits. Given that an opportunity cost exists with each economic choice, it is the intent of the legislature that the overall impact of economic development-focused tax preferences benefit the state's economy. [2011 c 335 § 1; 2006 c 197 § 1.]

43.136.021 "Tax preference" defined. As used in this chapter, "tax preference" means an exemption, exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. [2006 c 197 § 2.]

43.136.035 Citizen commission for performance measurement of tax preferences. (1) The citizen commission for performance measurement of tax preferences is created.

(2) The commission has seven members as follows:

(a) One member is the state auditor, who is a nonvoting member;

(b) One member is the chair of the joint legislative audit and review committee, who is a nonvoting member;

(c) The chair of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives shall each appoint a member. None of these appointees may be members of the legislature; and

(d) The governor shall select the seventh member.

(3) Persons appointed by the caucus chairs should be individuals who represent a balance of perspectives and con-

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stituencies, and have a basic understanding of state tax policy, government operations, and public services. These appointees should have knowledge and expertise in performance management, fiscal analysis, strategic planning, economic development, performance assessments, or closely related fields.

(4) The commission shall elect a chair from among its voting or nonvoting members. Decisions of the commission must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the vast majority of the commission favors taking a particular action. If the commission determines that sufficient consensus cannot be reached, a vote must be taken. The commission must allow a minority report to be included with a decision of the commission, if requested by a member of the commission.

(5) Members serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. However, in the case of the initial terms, the members appointed by the chairs of senate caucuses shall serve four-year terms, the members appointed by the chairs of house of representatives caucuses shall serve three-year terms, and the member appointed by the governor shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(6) The joint legislative audit and review committee shall provide clerical, technical, and management personnel to the commission to serve as the commission's staff. The department of revenue shall provide necessary support and information to the joint legislative audit and review committee.

(7) The commission shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the commission. The members of the commission shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2006 c 197 § 3.]

43.136.045 Schedule for review of tax preferences—Expedited review—Citizen input. (1) The citizen commission for performance measurement of tax preferences must develop a schedule to accomplish an orderly review of tax preferences at least once every ten years. In determining the schedule, the commission must consider the order the tax preferences were enacted into law, in addition to other factors including but not limited to grouping preferences for review by type of industry, economic sector, or policy area. The commission may elect to include, anywhere in the schedule, a tax preference that has a statutory expiration date. The commission must omit from the schedule tax preferences that are required by constitutional law, sales and use tax exemptions for machinery and equipment for manufacturing, research and development, or testing, the small business credit for the business and occupation tax, sales and use tax exemptions for food and prescription drugs, property tax relief for retired persons, and property tax valuations based on current use, and may omit any tax preference that the commission determines is a critical part of the structure of the tax system. As an alternative to the process under RCW 43.136.055, the commission may recommend to the joint legislative audit and

review committee an expedited review process for any tax preference.

(2) The commission must revise the schedule as needed each year, taking into account newly enacted or terminated tax preferences. The commission must deliver the schedule to the joint legislative audit and review committee by September 1st of each year.

(3) The commission must provide a process for effective citizen input during its deliberations. [2011 c 335 § 2; 2006 c 197 § 4.]

43.136.055 Review of tax preferences by joint legislative audit and review committee—Recommendations. (1) The joint legislative audit and review committee must review tax preferences according to the schedule developed under RCW 43.136.045. The committee must consider, but not be limited to, the following factors in the review as relevant to each particular tax preference:

(a) The classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;

(b) Public policy objectives that might provide a justification for the tax preference, including but not limited to the legislative history, any legislative intent, or the extent to which the tax preference encourages business growth or relocation into this state, promotes growth or retention of high wage jobs, or helps stabilize communities;

(c) Evidence that the existence of the tax preference has contributed to the achievement of any of the public policy objectives;

(d) The extent to which continuation of the tax preference might contribute to any of the public policy objectives;

(e) The extent to which the tax preference may provide unintended benefits to an individual, organization, or industry other than those the legislature intended;

(f) The extent to which terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference, and the extent to which resulting higher taxes may have negative effects on employment and the economy;

(g) The feasibility of modifying the tax preference to provide for adjustment or recapture of the tax benefits of the tax preference if the objectives are not fulfilled;

(h) Fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued. For the purposes of this subsection, "fiscal impact" includes an analysis of the general effects of the tax preference on the overall state economy, including, but not limited to, the effects of the tax preference on the consumption and expenditures of persons and businesses within the state;

(i) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes;

(j) The economic impact of the tax preference compared to the economic impact of government activities funded by the tax for which the tax preference is taken at the same level of expenditure as the tax preference. For purposes of this subsection the economic impact shall be determined using the Washington input-output model as published by the office of financial management;

(k) Consideration of similar tax preferences adopted in other states, and potential public policy benefits that might be gained by incorporating corresponding provisions in Washington.

(2) For each tax preference, the committee must provide a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately. The committee may recommend accountability standards for the future review of a tax preference. [2011 c 335 § 3; 2006 c 197 § 5.]

43.136.057 Review of hog fuel tax exemption by joint legislative audit and review committee. (Expires June 30, 2024.) (1) The intent of the tax exemption provided in RCW 82.08.956 and 82.12.956 is to promote the retention of relatively high wage jobs in the counties where facilities who purchase and use hog fuel are located. Specifically, in a time when there is increasing pressure to close industrial facilities like mills and relocate this economic activity out of state or overseas, rural areas of the state are at risk of losing critical jobs that directly, or indirectly, support entire communities. The legislature, in enacting the hog fuel tax exemption, hopes to retain seventy five percent of the jobs at each facility in the state at which the exemption is claimed, between now and June 30, 2024.

(2) The joint legislative audit and review committee must review the performance through July 1, 2018, of the tax preferences established in RCW 82.08.956 and 82.12.956, and prepare a report to the legislature by October 31, 2019.

(3) The department of revenue must provide the committee with annual survey information and any other tax data necessary to conduct the review required in subsection (2) of this section. The employment security department and other agencies, as requested, must cooperate with the committee by providing information about the average wage of employment in the county where each facility owned or operated by a company claiming the exemption is located. The report is not limited to, but must include, the following information:

(a) Identification of the baseline number of jobs existing as of January 1, 2013, in facilities where the preference has been claimed, as well as related wage and benefit information;

(b) Identification of how the number of jobs at these facilities has changed during the duration of the credit;

(c) Analysis of how the wages provided to employees at affected facilities compare to the average wages in the county in which the facility is located;

(d) Analysis of how the benefits, including medical and other health care benefits, provided to employees at affected facilities compare to the average wages in the county in which the facility is located; and

(e) Whether and to what extent the goal has been achieved, of retaining seventy-five percent of employment at the facilities at which the exemption has been claimed.

(4) This section expires June 30, 2024. [2013 2nd sp.s. c 13 § 1005.]

Intent—Effective date—2013 2nd sp.s. c 13: See notes following RCW 82.08.956.

43.136.065 Reports to the citizen commission—Reports to the legislature—Public hearings. (1) The joint legislative audit and review committee shall report its findings and recommendations for scheduled tax preferences to the citizen commission for performance measurement of tax preferences by August 30th of each year. The commission may review and comment on the report of the committee. The committee may revise its report based on the comments of the commission. The committee shall prepare a final report that includes the comments of the commission and submit the final report to the finance committee of the house of representatives and the ways and means committee of the senate by December 30th.

(2) The joint legislative audit and review committee shall submit a special report reviewing all tax preferences that have statutory expiration dates between June 30, 2005, and January 1, 2007. For the special report, the committee shall complete a review under RCW 43.136.055, and obtain comments of the citizen commission for performance measurement of tax preferences under subsection (1) of this section, to the extent possible. The committee shall submit the special report to the finance committee of the house of representatives and the ways and means committee of the senate by January 12, 2006.

(3) Following receipt of a report under this section, the finance committee of the house of representatives and the ways and means committee of the senate shall jointly hold a public hearing to consider the final report and any related data. [2006 c 197 § 6.]

43.136.075 Information from the department of revenue and the employment security department. Upon request of the citizen commission for performance measurement of tax preferences or the joint legislative audit and review committee, the department of revenue and the department of employment security shall provide information needed by the commission or committee to meet its responsibilities under this chapter. [2006 c 197 § 7.]

43.136.080 Tax preference performance statements—Task force created. (1) The legislative auditor, with the assistance of a task force, must make recommendations on the appropriate data and metrics that should be included in tax preference performance statements to evaluate new tax preferences, as provided under RCW 82.32.808.

(2)(a) The task force is comprised of five members: (i) One person from the department of revenue; (ii) one person from an association representing Washington businesses; (iii) one person from the office of financial management; (iv) the legislative auditor or a designee of the legislative auditor; and (v) an economist with substantial experience in state taxes.

(b) The task force must choose its chair from among its membership.

(3) By January 1, 2014, and in compliance with RCW 43.01.036, the legislative auditor must submit a report to the appropriate fiscal committees of the legislature the findings and recommendations of the task force. [2013 2nd sp.s. c 13 § 1703.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.04.43393.

(2022 Ed.)

43.136.090 Economic impact report. By December 1, 2020, and in compliance with RCW 43.01.036, the joint legislative audit and review committee must provide an economic impact report to the legislature evaluating the impacts of changes made in chapter 207, Laws of 2014 regarding the leasehold tax and property tax treatment of property owned by a federally recognized Indian tribe. The economic impact report must indicate: The number of parcels and uses of land involved; the economic impacts to tribal governments; state and local government revenue reductions, increases, and shifts from all tax sources affected; impacts on public infrastructure and public services; impacts on business investment and business competition; a description of the types of business activities affected; impacts on the number of jobs created or lost; and any other data the joint legislative audit and review committee deems necessary in determining the economic impacts of chapter 207, Laws of 2014. [2014 c 207 § 11.]

Application—2014 c 207: See note following RCW 84.36.010.

Chapter 43.143 RCW

OCEAN RESOURCES MANAGEMENT ACT

Sections

- 43.143.005 Legislative findings.
- 43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource decisions.
- 43.143.020 Definitions.
- 43.143.030 Planning and project review criteria.
- 43.143.050 Washington coastal marine advisory council.
- 43.143.060 Washington coastal marine advisory council—Duties.
- 43.143.901 Short title.

Oil or gas exploration in marine waters: RCW 90.58.550.

Transport of petroleum products or hazardous substances: Chapter 88.40 RCW.

43.143.005 Legislative findings. (1) Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources.

(2) Ocean and marine-based industries and activities, such as fishing, aquaculture, tourism, and marine transportation have played a major role in the history of the state and will continue to be important in the future.

(3) Washington's coastal waters, seabed, and shorelines are faced with conflicting use demands. Some uses may pose unacceptable environmental or social risks at certain times.

(4) The state of Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed. [1997 c 152 § 1; 1989 1st ex.s. c 2 § 8.]

43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource

decisions. (1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production.

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in RCW 43.143.030. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of RCW 43.143.030. If information becomes available which indicates that such uses should reasonably be covered by the requirements of RCW 43.143.030, the permitting government or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources. [1997 c 152 § 2; 1995 c 339 § 1; 1989 1st ex.s. c 2 § 9.]

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

(1) "Coastal counties" means Clallam, Jefferson, Grays Harbor, and Pacific counties.

(2) "Coastal waters" means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles. [1989 1st ex.s. c 2 § 10.]

43.143.030 Planning and project review criteria. (1) When the state of Washington and local governments develop plans for the management, conservation, use, or development of natural resources in Washington's coastal waters, the policies in RCW 43.143.010 shall guide the decision-making process.

(2) Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia river, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations. [1989 1st ex.s. c 2 § 11.]

43.143.050 Washington coastal marine advisory council. (1) The Washington coastal marine advisory council is established in the executive office of the governor to fulfill the duties outlined in RCW 43.143.060.

(2)(a) Voting members of the Washington coastal marine advisory council shall be appointed by the governor or the governor's designee. The council consists of the following voting members:

(i) The governor or the governor's designee;

(ii) The director or commissioner, or the director's or commissioner's designee, of the following agencies:

(A) The department of ecology;

(B) The department of natural resources;

(C) The department of fish and wildlife;

(D) The state parks and recreation commission;

(E) The department of commerce; and

(F) Washington sea grant;

(iii) The following members of the Washington coastal marine advisory council established by the department of ecology and as existing on January 15, 2013:

(A) One citizen from a coastal community;

(B) Two persons representing coastal commercial fishing;

(C) One representative from a coastal conservation group;

(D) One representative from a coastal economic development group;

(E) One representative from an educational institution;

(F) Two representatives from energy industries or organizations, one of which must be from the coast;

(G) One person representing coastal recreation;

(H) One person representing coastal recreational fishing;

(I) One person representing coastal shellfish aquaculture;

(J) One representative from the coastal shipping industry;

(K) One representative from a science organization;

(L) One representative from the coastal Washington sustainable salmon partnership;

(M) One representative from a coastal port; and

(N) One representative from each outer coast marine resources committee, to be selected by the marine resources committee.

(b) The Washington coastal marine advisory council shall adopt bylaws and operating procedures that may be modified from time to time by the council.

(3) The Washington coastal marine advisory council may invite state, tribal, local governments, federal agencies, scientific experts, and others with responsibility for the study and management of coastal and ocean resources or regulation of coastal and ocean activities to designate a liaison to the council to attend council meetings, respond to council requests for technical and policy information, perform collaborative research, and review any draft materials prepared by the council. The council may also invite representatives from other coastal states or Canadian provinces to participate, when appropriate, as nonvoting members.

(4) The chair of the Washington coastal marine advisory council must be nominated and elected by a majority of councilmembers. The term of the chair is one year, and the position is eligible for reelection. The agenda for each meeting must be developed as a collaborative process by councilmembers.

(5) The term of office of each member appointed by the governor is four years. Members are eligible for reappointment.

(6) The Washington coastal marine advisory council shall utilize a consensus approach to decision making. The council may put a decision to a vote among councilmembers, in the event that consensus cannot be reached. The council must include in its bylaws guidelines describing how consensus works and when a lack of consensus among councilmembers will trigger a vote.

(7) Consistent with available resources, the Washington coastal marine advisory council may hire a neutral convener to assist in the performance of the council's duties, including but not limited to the dissemination of information to all parties, facilitating selected tasks as requested by the councilmembers, and facilitation of setting meeting agendas.

(8) The department of ecology shall provide administrative and primary staff support for the Washington coastal marine advisory council.

(9) The Washington coastal marine advisory council must meet at least twice each year or as needed.

(10) A majority of the members of the Washington coastal marine advisory council constitutes a quorum for the transaction of business. [2013 c 318 § 1.]

43.143.060 Washington coastal marine advisory council—Duties. (1) The duties of the Washington coastal marine advisory council established in RCW 43.143.050 are to:

(a) Serve as a forum for communication concerning coastal waters issues, including issues related to: Resource management; shellfish aquaculture; marine and coastal hazards; ocean energy; open ocean aquaculture; coastal waters research; education; and other coastal marine-related issues.

(b) Serve as a point of contact for, and collaborate with, the federal government, regional entities, and other state governments regarding coastal waters issues.

(2022 Ed.)

(c) Provide a forum to discuss coastal waters resource policy, planning, and management issues; provide either recommendations or modifications, or both, of principles, and, when appropriate, mediate disagreements.

(d) Serve as an interagency resource to respond to issues facing coastal communities and coastal waters resources in a collaborative manner.

(e) Identify and pursue public and private funding opportunities for the programs and activities of the council and for relevant programs and activities of member entities.

(f) Provide recommendations to the governor, the legislature, and state and local agencies on specific coastal waters resource management issues, including:

(i) Annual recommendations regarding coastal marine spatial planning expenditures and projects, including uses of the marine resources stewardship trust account created in RCW 43.372.070;

(ii) Principles and standards required for emerging new coastal uses;

(iii) Data gaps and opportunities for scientific research addressing coastal waters resource management issues;

(iv) Implementation of Washington's ocean action plan 2006;

(v) Development and implementation of coast-wide goals and strategies, including marine spatial planning; and

(vi) A coastal perspective regarding cross-boundary coastal issues.

(2) In making recommendations under this section, the Washington coastal marine advisory council shall consider:

(a) The principles and policies articulated in Washington's ocean action plan; and

(b) The protection and preservation of existing sustainable uses for current and future generations, including economic stakeholders reliant on marine waters to stabilize the vitality of the coastal economy. [2013 c 318 § 2.]

43.143.901 Short title. Sections 8 through 12 of this act shall constitute a new chapter in Title 43 RCW and may be known and cited as the ocean resources management act. [1989 1st ex.s. c 2 § 19.]

Chapter 43.147 RCW

PACIFIC NORTHWEST ECONOMIC REGION AGREEMENT

Sections

43.147.010	Terms of agreement.
43.147.020	Finding.
43.147.030	Cooperative activities encouraged.
43.147.040	Interlibrary sharing—Finding.
43.147.050	Interlibrary sharing—Definition—Member libraries.
43.147.060	PNWER-Net working subgroup—Generally.
43.147.070	PNWER-Net working subgroup—Duties.
43.147.080	PNWER-Net working subgroup—Gifts, grants, donations.

43.147.010 Terms of agreement. The Pacific Northwest Economic Region is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect in accordance with the terms of this agreement.

THE PACIFIC NORTHWEST ECONOMIC REGION

ARTICLE I—Policy and Purpose

States and provinces participating in the Pacific Northwest Economic Region shall seek to develop and establish policies that: Promote greater regional collaboration among the seven entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific Northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: International trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific Northwest Economic Region may take the form of uniform legislation enacted by two or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

ARTICLE II—Eligible Parties and Effective Date

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon, and Washington. This agreement establishing the Pacific Northwest Economic Region shall become effective when it is executed by one state, one province, and one additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

ARTICLE III—Organizational Structure

Each state and province participating in this agreement shall appoint representatives to the Pacific Northwest Economic Region. The organizational structure of the Pacific Northwest Economic Region shall consist of the following: A delegate council consisting of four legislators and the governor or governor's designee from each participating state and four representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one legislator from each participating state and/or province who is a member of the delegate council and four of the seven governors/premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four governor or premier members of the executive committee shall be chosen by the governors and premiers from

among the governors and premiers on the delegate council. At least one of four members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific Northwest Economic Region.

ARTICLE IV—Duties and Responsibilities

The delegate council shall have the following duties and responsibilities: Facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific Northwest Economic Region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific Northwest Economic Region. The executive committee shall perform the following duties and responsibilities: Elect the president and vice president of the Pacific Northwest Economic Region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of, and if appropriate apply for, (1) tax exempt status under the laws and regulations of the United States or any state or subdivision thereof and (2) similar status under the laws and regulations of Canada or any province or subdivision thereof, and approve such rules, regulations, organizational policies, and staffing structure for the Pacific Northwest Economic Region and take such further actions on behalf of the Pacific Northwest Economic Region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific Northwest Economic Region. The rules and regulations of the Pacific Northwest Economic Region shall establish the procedure for voting.

ARTICLE V—Membership of Policy Committees

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators and governors or premiers to sit on these committees in accordance with its own rules and regulations concerning such appointments.

ARTICLE VI—General Provisions

This agreement shall not be construed to limit the powers of any state or province or to amend or repeal or prevent the enactment of any legislation. [1993 c 108 § 1; 1991 c 251 § 2.]

43.147.020 Finding. The legislature finds that there is a new emerging global economy in which countries and regions located in specific areas of the world are forging new cooperative arrangements.

The legislature finds that these new cooperative arrangements are increasing the competitiveness of the participating countries and regions, thus increasing the economic benefits and the overall quality of life for the citizens of the individual countries and regions.

The legislature also finds that the Pacific Northwest states of Alaska, Idaho, Montana, Oregon, and Washington and the Canadian provinces of Alberta and British Columbia are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the individual states and provinces that will provide substantial economic benefits for all of their citizens. [1991 c 251 § 1.]

43.147.030 Cooperative activities encouraged. It is the intent of chapter 251, Laws of 1991 to direct and encourage the establishment of cooperative activities between the seven legislative bodies of the region. The state representatives to the Pacific Northwest Economic Region shall work through appropriate channels to advance consideration of proposals developed by this body. [1991 c 251 § 3.]

43.147.040 Interlibrary sharing—Finding. In chapter 251, Laws of 1991, the legislature enacted into law the Pacific Northwest economic region agreement and made the state of Washington a party along with member states Alaska, Idaho, Montana, and Oregon, and member Canadian provinces Alberta and British Columbia. The legislature recognized that the member states and provinces of the Pacific Northwest economic region are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the members and providing substantial economic benefits for all of their citizens.

For those reasons, in chapter 251, Laws of 1991, the legislature also encouraged the establishment of cooperative activities between the seven legislative bodies of the Pacific Northwest economic region. The member states and provinces now desire to engage in such cooperation by electronically sharing twenty-two million volumes from certain of their respective universities. The member states and provinces have determined that such interlibrary sharing will provide substantial economic benefit for their citizens. The legislature agrees, specifically also finding that such interlibrary sharing furthers a major component of education strategy in the 1990's and twenty-first century, namely providing increased access to knowledge via technology. [1993 c 485 § 1.]

43.147.050 Interlibrary sharing—Definition—Member libraries. Unless the context clearly requires otherwise, as used in RCW 43.147.040 through 43.147.080 "PNWER-Net" means the technology network to be created by the member states and provinces of the Pacific Northwest economic region that will be capable of electronically linking the following undergraduate university libraries of the member states and provinces:

- (1) Alaska:
 - (a) University of Alaska, Anchorage;
 - (b) University of Alaska, Juneau;
- (2) Alberta:
 - (a) University of Alberta, Calgary;
 - (b) University of Alberta, Edmonton;

- (3) British Columbia:
 - (a) University of British Columbia, Vancouver;
 - (b) University of Victoria, Victoria;
- (4) Idaho:
 - (a) Boise State University, Boise;
 - (b) University of Idaho, Moscow;
- (5) Montana:
 - (a) Montana State University, Bozeman;
 - (b) University of Montana, Missoula;
- (6) Oregon:
 - (a) Oregon State University, Corvallis;
 - (b) University of Oregon, Eugene;
- (7) Washington:
 - (a) University of Washington, Seattle; and
 - (b) Washington State University, Pullman. [1993 c 485 § 2.]

43.147.060 PNWER-Net working subgroup—Generally. (1) The PNWER-Net working subgroup is hereby created for the member state of Washington. The working subgroup shall be composed of seven members as follows: Two members of the senate, one from each of the major caucuses, appointed by the president of the senate; two members of the house of representatives, appointed by the speaker of the house of representatives; the state librarian; and the primary undergraduate academic librarian from each of the state's two research institutions of higher education.

(2) The staff support shall be provided by the senate committee services and, to the extent authorized by the chief clerk of the house of representatives, by the house of representatives office of program research as mutually agreed by the legislators on the working group.

(3) Legislative members shall be reimbursed for expenses in accordance with RCW 44.04.120. Nonlegislative members shall be reimbursed for expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 485 § 3.]

43.147.070 PNWER-Net working subgroup—Duties. The PNWER-Net working subgroup shall have the following duties:

(1) To work with working subgroups from other member states and provinces in an entity known as the PNWER-Net working group to develop PNWER-Net; and

(2) To assist the PNWER-Net working group in developing criteria to ensure that designated member libraries use existing telecommunications infrastructure including the internet. [1998 c 245 § 49; 1993 c 485 § 4.]

43.147.080 PNWER-Net working subgroup—Gifts, grants, donations. The PNWER-Net working group may accept gifts, grants, and donations from private individuals and entities made for the purposes of RCW 43.147.040 through 43.147.070. [1993 c 485 § 5.]

Chapter 43.150 RCW

CENTER FOR VOLUNTEERISM AND CITIZEN SERVICE

Sections

- 43.150.010 Legislative findings.
43.150.020 Short title.

- 43.150.030 Definitions.
 43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff.
 43.150.050 Programs and activities authorized.
 43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created.
 43.150.080 At-risk children—Collaborative program.

43.150.010 Legislative findings. (1) The legislature finds that:

(a) Large numbers of Washington's citizens are actively engaged in carrying forward the ethic of service and voluntary activities that benefit their citizens, their communities, and the entire state;

(b) This contribution continues to provide the equivalent of hundreds of millions of dollars in services that might otherwise create a need for additional tax collections;

(c) Many Washington citizens have yet to become fully involved in the life of their communities; many societal needs exist that could and should be met by new citizen service initiatives;

(d) The state of Washington needs to continue to encourage and expand the ethic of civic responsibility among its citizenry, through individuals working on their own, and through local and statewide organizations, both governmental and private and nonprofit agencies;

(e) This ethic of citizen service benefits those who serve and those who receive services; in both cases there is the betterment of all Washington communities;

(f) Public and private agencies depend in large measure on the efforts of volunteers for the accomplishment of their missions and actively seek to increase these efforts;

(g) State agencies can and should extend their service delivery programs through the increased use of and support for volunteers;

(h) The national and community service act of 1990 provides an opportunity for Washington to support citizen service and volunteer activities in Washington;

(i) Business, industry, communities, schools, and labor in Washington state are increasingly interested in opportunities for community service and in developing the volunteer and service ethic;

(j) While providing both tangible and intangible benefits, volunteers in turn need respect and support for their efforts;

(k) The state itself, through the programs and services of its agencies as well as through the provisions of law and rule making, can and should provide a primary role and focus for encouraging the ethic of citizen service and support for volunteer efforts and programs;

(l) Planned and coordinated recognition, information, training, and technical assistance for volunteer and citizen service efforts through a statewide center for voluntary action have been proven to be effective means of multiplying the resources volunteers bring to the needs of their communities; and

(m) It is important that Washington state position itself to raise volunteerism to the highest attainable levels, and along with the private sector, become a voice in the role citizen service will take in providing solutions to societal needs.

(2) Therefore, the legislature, in recognition of these findings, enacts the center for volunteerism and citizen service act to ensure that the state of Washington actively promotes the ethic of service and makes every appropriate effort

to encourage effective involvement of individuals in their communities and of volunteers who supplement the services of private, nonprofit community agencies and organizations, agencies of local government throughout the state, and the state government. [1992 c 66 § 1; 1982 1st ex.s. c 11 § 1.]

43.150.020 Short title. This chapter may be known and cited as the center for volunteerism and citizen service act. [1992 c 66 § 2; 1982 1st ex.s. c 11 § 2.]

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

(1) "Volunteer" means a person who is willing to work without expectation of salary or financial reward and who chooses where he or she provides services and the type of services he or she provides.

(2) "Center" means the state center for volunteerism and citizen service. [1995 c 269 § 2301; 1992 c 66 § 3; 1982 1st ex.s. c 11 § 3.]

Additional notes found at www.leg.wa.gov

43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff. The governor may establish a statewide center for volunteerism and citizen service within the *department of community, trade, and economic development and appoint an executive administrator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do not apply to the executive administrator and the staff. [1995 c 399 § 84; 1992 c 66 § 4; 1985 c 6 § 11; 1982 1st ex.s. c 11 § 4.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.150.050 Programs and activities authorized. The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer or citizen service programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism and citizen service, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter;

(7) Seeking funding sources for enhancing, promoting, and supporting the ethic of service and facilitating or providing information to those organizations and agencies which may benefit;

(8) Providing information about agencies and individuals who are working to prevent the spread of the human immunodeficiency virus, as defined in chapter 70.24 RCW, and to agencies and individuals who are working to provide health and social services to persons living with the human immunodeficiency virus, as defined in chapter 70.24 RCW. [2020 c 76 § 20; 1992 c 66 § 5; 1988 c 206 § 301; 1982 1st ex.s. c 11 § 5.]

43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created. (1) The center may receive such gifts, grants, and endowments from private or public sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purpose of the center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. The center may charge reasonable fees, or other appropriate charges, for attendance at workshops and conferences, for various publications and other materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of those activities and materials.

(2) A fund known as the voluntary action center fund is created, which consists of all gifts, grants, and endowments, fees, and other revenues received pursuant to this chapter. The state treasurer is the custodian of the fund. Disbursements from the fund shall be on authorization of the executive administrator of the center or the administrator's designee, and may be made for the following purposes to enhance the capabilities of the center's activities, such as: (a) Reimbursement of center volunteers for travel expenses as provided in RCW 43.03.050 and 43.03.060; (b) publication and distribution of materials involving volunteerism and citizen service; (c) for other purposes designated in gifts, grants, or endowments consistent with the purposes of this chapter. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1992 c 66 § 7; 1982 1st ex.s. c 11 § 7.]

43.150.080 At-risk children—Collaborative program. A volunteer organization or individual volunteer may assist a public agency, with the agency's approval, in a collaborative program designed to serve the needs of at-risk children. The center, with the advice and counsel of the attorney general, shall develop guidelines defining at-risk children and establish reasonable safety standards to protect the safety of program participants and volunteers, including but not limited to background checks as appropriate as provided in RCW 43.43.830 through 43.43.834. In carrying out the volunteer activity, the individual volunteer or member of the volunteer organization shall not be considered to be an employee or agent of any public agency involved in the collaborative program. The public agency shall have no liability for any acts of the individual volunteer or volunteer organization. Prior to participation, a volunteer and the public agency administering the collaborative program shall sign a written master agreement, approved in form by the attorney general, that includes provisions defining the scope of the volunteer

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activities and waiving any claims against each other. A volunteer organization or individual volunteer shall not be liable for civil damages resulting from any act or omission arising from volunteer activities which comply with safety standards issued by the center for volunteerism and citizen service, other than acts or omissions constituting gross negligence or willful or wanton misconduct. [1993 c 365 § 1.]

Chapter 43.155 RCW PUBLIC WORKS PROJECTS

Sections

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43.155.010 Legislative findings and policy. The legislature finds that there exists in the state of Washington over four billion dollars worth of critical projects for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, and storm and sanitary sewage systems. The December, 1983 Washington state public works report prepared by the planning and community affairs agency documented that local governments expect to be capable of financing over two billion dollars worth of the costs of those critical projects but will not be able to fund nearly half of the documented needs.

The legislature further finds that Washington's local governments have unmet financial needs for solid waste disposal, including recycling, and encourages the board to make an equitable geographic distribution of the funds.

It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, grants, financing guarantees, and technical assistance available to local governments for these projects. [2017 3rd sp.s. c 10 § 1; 1996 c 168 § 1; 1985 c 446 § 7.]

43.155.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Department" means the department of commerce.

(4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems, lead remediation of drinking water systems, and solid waste facilities, including recycling facilities and composting and other organic materials management facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(8) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans, grants, and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

(9) "Value planning" means a uniform approach to assist in decision making through systematic evaluation of potential alternatives to solving an identified problem. [2022 c 180 § 503; 2017 3rd sp.s. c 10 § 2; 2009 c 565 § 33; 2001 c 131 § 1; 1996 c 168 § 2; 1995 c 399 § 85; 1985 c 446 § 8.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

43.155.030 Public works board created. (1) The public works board is hereby created.

(2) The board shall be composed of thirteen members appointed by the governor for terms of four years, except that five members initially shall be appointed for terms of two years. The board shall include: (a) Three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the association of Washington cities or its successor; (b) three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the Washington state association of counties or its successor; (c) three

members appointed from a list of at least six persons nominated jointly by the Washington public utility districts association and a state association of water-sewer districts, or their successors; and (d) four members appointed from the general public. In appointing the four general public members, the governor shall endeavor to balance the geographical composition of the board and to include members with special expertise in relevant fields such as public finance, architecture and civil engineering, and public works construction. The governor shall appoint one of the general public members of the board as chair. The term of the chair shall coincide with the term of the governor.

(3) Staff support to the board shall be provided by the department.

(4) Members of the board shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(5) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations under subsection (2) of this section shall be filled from a list of at least three persons nominated by the relevant association or associations. Any members of the board, appointive or otherwise, may be removed by the governor for cause in accordance with RCW 43.06.070 and 43.06.080. [1999 c 153 § 58; 1985 c 446 § 9.]

Additional notes found at www.leg.wa.gov

43.155.040 General powers of the board. The board may:

(1) Accept from any state or federal agency, loans or grants for the planning or financing of any public works project and enter into agreements with any such agency concerning the loans or grants;

(2) Provide technical assistance to local governments;

(3) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(4) Develop a program that provides grants and additional assistance to leverage federal programs, and other opportunities to target deeper financial assistance to communities with economic distress or projects that would result in rate increases to residential utility rates that exceed a determined percentage of median household income;

(5) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter;

(6) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [2017 3rd sp.s. c 10 § 4; 1985 c 446 § 10.]

43.155.050 Public works assistance account. (1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and grants and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated or transferred to the water pollution control revolving fund and the drinking water assis-

tance account to provide for state match requirements under federal law. Moneys in the account may be transferred to the move ahead WA account to provide support of public works projects funded in the move ahead WA program. Not more than 20 percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans and grants, emergency loans and grants, or loans and grants for capital facility planning under this chapter. Not more than 10 percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated as grants for preconstruction, emergency, capital facility planning, and construction projects. During the 2017-2019 and 2019-2021 fiscal biennia, the legislature may appropriate moneys from the account for activities related to rural economic development, the growth management act, the aviation revitalization loan program, the community economic revitalization board broadband program, and the voluntary stewardship program. During the 2021-2023 biennium, the legislature may appropriate moneys from the account for activities related to the aviation revitalization board. During the 2019-2021 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the public works assistance account to the education legacy trust account. During the 2019-2021 and 2021-2023 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the public works assistance account to the statewide broadband account. The legislature may appropriate moneys from the public works assistance account for activities related to the voluntary stewardship program, rural economic development, and the growth management act. During the 2021-2023 biennium, the legislature may appropriate moneys from the account for projects identified in section 1033, chapter 296, Laws of 2022.

(2) For fiscal year 2024 through fiscal year 2038, the state treasurer must transfer from the public works assistance account to the move ahead WA account created in RCW 46.68.510 \$57,000,000 each fiscal year in four equal quarterly transfers. [2022 c 296 § 7009; 2022 c 182 § 302; 2022 c 157 § 15. Prior: 2021 c 334 § 979; 2021 c 332 § 7031; prior: 2019 c 415 § 972; 2019 c 413 § 7033; prior: 2017 3rd sp.s. c 10 § 5; 2017 3rd sp.s. c 1 § 974; prior: 2015 3rd sp.s. c 4 § 959; 2015 3rd sp.s. c 3 § 7032; 2013 2nd sp.s. c 4 § 983; 2012 2nd sp.s. c 2 § 6004; 2011 1st sp.s. c 50 § 951; prior: 2010 1st sp.s. c 37 § 932; 2010 1st sp.s. c 36 § 6007; (2009 c 564 § 940 expired June 30, 2011); (2008 c 328 § 6002 expired June 30, 2011); 2007 c 520 § 6037; (2007 c 520 § 6036 expired June 30, 2011); prior: 2005 c 488 § 925; (2005 c 425 § 4 expired June 30, 2011); 2001 c 131 § 2; prior: 1995 2nd sp.s. c 18 § 918; 1995 c 376 § 11; 1993 sp.s. c 24 § 921; 1985 c 471 § 8.]

Reviser's note: This section was amended by 2022 c 157 § 15, 2022 c 182 § 302, and by 2022 c 296 § 7009, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2022 c 296: See note following RCW 43.63A.125.

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2021 c 332: See note following RCW 43.19.501.

Effective date—2019 c 415: See note following RCW 28B.20.476.

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Effective date—2019 c 413: See note following RCW 28B.15.210.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective date—2015 3rd sp.s. c 3: See note following RCW 43.160.080.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective date—2012 2nd sp.s. c 2: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 23, 2012]." [2012 2nd sp.s. c 2 § 6013.]

Finding—2005 c 425: "The legislature has and continues to recognize the vital importance of economic development to the health and prosperity of Washington state as indicated in RCW 43.160.010, *43.155.070(4)(g), 43.163.005, and 43.168.010. The legislature finds that current economic development programs and funding, which are primarily low-interest loan programs, can be enhanced by creating a grant program to assist with public infrastructure projects that directly stimulate community and economic development by supporting the creation of new jobs or the retention of existing jobs." [2005 c 425 § 1.]

***Reviser's note:** RCW 43.155.070 was amended by 2017 3rd sp.s. c 10 § 9, deleting subsection (4)(g).

Findings—1995 c 376: See note following RCW 70A.100.060.

Additional notes found at www.leg.wa.gov

43.155.060 Public works financing powers—Establishment of interest rates—Competitive bids on projects.

(1) In order to aid the financing of public works projects, the board may:

(a) Make loans or grants to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.

(b) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.

(c) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

(d) Provide a method for the allocation of loans, grants, and financing guarantees and the provision of technical assistance under this chapter.

(2) When establishing interest rates for loan programs authorized in this chapter for projects which are supported by a rate base of at least fifty thousand equivalent residential units, the board must base interest rates on the average daily market interest rate for tax-exempt municipal bonds as published in the bond buyer's index for the period from sixty to thirty days before the start of the application cycle.

(a) For projects with a repayment period between five and twenty years, the rate must be fifty percent of the market rate.

(b) For projects with a repayment period under five years, the rate must be twenty-five percent of the market rate.

(c) For any year in which the average daily market interest rate for tax-exempt municipal bonds for the period from sixty to thirty days before the start of an application cycle is nine percent or greater, the board may cap interest rates at four percent for projects with a repayment period between five and twenty years and at two percent for projects with a repayment period under five years.

(d) The board may also provide reduced interest rates, extended repayment periods, or grants for projects that meet financial hardship criteria as measured by the affordability index or similar standard measure of financial hardship. The board may provide reduced interest rates, extended repayment periods, or grants for projects that are supported by a rate base of less than fifty thousand equivalent residential units.

(3) All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter. [2017 3rd sp.s. c 10 § 6; 1988 c 93 § 2; 1985 c 446 § 11.]

43.155.065 Emergency public works projects. The board may make low-interest or interest-free loans or grants to local governments for emergency public works projects. Emergency public works projects shall include the construction, repair, reconstruction, replacement, rehabilitation, or improvement of a public water system that is in violation of health and safety standards and is being operated by a local government on a temporary basis. The loans or grants may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following sources: (1) Federal disaster or emergency funds, including funds from the federal emergency management agency; (2) state disaster or emergency funds; (3) insurance settlements; or (4) litigation. [2017 3rd sp.s. c 10 § 7; 2001 c 131 § 3; 1990 c 133 § 7; 1988 c 93 § 1.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.155.068 Loans or grants for preconstruction activities. (1) The board may make loans or grants to local governments for preconstruction activities on public works projects before the legislature approves the construction phase of the project. Preconstruction activities include design, engineering, bid-document preparation, environmental studies, right-of-way acquisition, value planning, and other preliminary phases of public works projects as determined by the board. The purpose of the loans and grants authorized in this section is to accelerate the completion of public works projects by allowing preconstruction activities

to be performed before the appropriation for the construction phase of the project by the legislature.

(2) Projects receiving loans or grants for preconstruction activities under this section must be evaluated using the priority process and factors in RCW 43.155.070. The receipt of a loan or grant for preconstruction activities does not ensure the receipt of a construction loan or grant for the project under this chapter. Construction loans or grants for projects receiving a loan or grant for preconstruction activities under this section are subject to legislative appropriation under RCW 43.155.070(7). The board shall adopt a single application process for local governments seeking both a loan or grant for preconstruction activities under this section and a construction loan for the project. [2017 3rd sp.s. c 10 § 8; 2001 c 131 § 4; 1995 c 363 § 2.]

Finding—Purpose—1995 c 363: "The legislature finds that there continues to exist a great need for capital projects to plan, acquire, design, construct, and repair local government streets, roads, bridges, water systems, and storm and sanitary sewage systems. It is the purpose of this act to accelerate the construction of these projects under the public works assistance program." [1995 c 363 § 1.]

43.155.070 Eligibility, priority, limitations, and exceptions—Report. (1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well-managed in the present and for long-term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; and

(xii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) The total number of applications and amount of funding requested for public works projects;

(ii) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(iii) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(iv) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(v) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(vi) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

(c) The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.

(5) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.

(7) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.

(8) To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70A.205 RCW.

(9) After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(10) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.

(11) The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure. [2021 c 65 § 49; 2017 3rd sp.s. c 10 § 9; 2015 3rd sp.s. c 3 § 7033; 2013 2nd sp.s. c 19 § 7032; 2013 c 275 § 3; 2012 c 196 § 9; 2009 c 518 § 16; 2008 c 299 § 25. Prior: 2007 c 341 § 24; 2007 c 231 § 2; 2001 c 131 § 5; 1999 c 164 § 602; 1997 c 429 § 29; 1996 c 168 § 3; 1995 c 363 § 3; 1993 c 39 § 1; 1991 sp.s. c 32 § 23; 1990 1st ex.s. c 17 § 82; 1990 c 133 § 6; 1988 c 93 § 3; 1987 c 505 § 40; 1985 c 446 § 12.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Effective date—2015 3rd sp.s. c 3: See note following RCW 43.160.080.

Effective date—2013 2nd sp.s. c 19: See note following RCW 43.34.080.

Findings—Recommendations—Reports encouraged—2007 c 231: "(1) The legislature finds that permit programs have been legislatively estab-

lished to protect the health, welfare, economy, and environment of Washington's citizens and to provide a fair, competitive opportunity for business innovation and consumer confidence. The legislature also finds that uncertainty in government processes to permit an activity by a citizen of Washington state is undesirable and erodes confidence in government. The legislature further finds that in the case of projects that would further economic development in the state, information about the permitting process is critical for an applicant's planning and financial assessment of the proposed project. The legislature also finds that applicants have a responsibility to provide complete and accurate information.

(2) The legislature recommends that applicants be provided with the following information when applying for a development permit from a city, county, or state agency:

(a) The minimum and maximum time an agency will need to make a decision on a permit, including public comment requirements;

(b) The minimum amount of information required for an agency to make a decision on a permit;

(c) When an agency considers an application complete for processing;

(d) The minimum and maximum costs in agency fees that will be incurred by the permit applicant; and

(e) The reasons for a denial of a permit in writing.

(3) In providing this information to applicants, an agency should base estimates on the best information available about the permitting program and prior applications for similar permits, as well as on the information provided by the applicant. New information provided by the applicant subsequent to the agency estimates may change the information provided by an agency per subsection (2) of this section. Project modifications by an applicant may result in more time, more information, or higher fees being required for permit processing.

(4) This section does not create an independent cause of action, affect any existing cause of action, or establish time limits for purposes of RCW 64.40.020.

(5) City, county, and state agencies issuing development permits are encouraged to track the progress in providing the information to applicants per subsection (2) of this section by preparing an annual report of its performance for the preceding fiscal year. The report should be posted on its website [and] made available and provided to the appropriate standing committees of the senate and house of representatives." [2007 c 231 § 1.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Finding—Purpose—1995 c 363: See note following RCW 43.155.068.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Additional notes found at www.leg.wa.gov

43.155.075 Loans and grants for public works projects—Statement of environmental benefits—Sustainable asset management best practices—Development of outcome-focused performance measures. In providing loans and grants for public works projects, the board shall require recipients to incorporate the environmental benefits of the project into their applications, and the board shall utilize the statement of environmental benefits in its prioritization and selection process, when applicable. For projects funded under this chapter, the board may require a local government to have sustainable asset management best practices in place; provide a long-term financial plan to demonstrate a sound maintenance program; have a long-term financial plan for loan repayments in place; and undergo value planning at the predesign project stage, where the greatest productivity gains and cost savings can be found. The board shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the loan and grant program. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The board shall consult with affected inter-

est groups in implementing this section. [2017 3rd sp.s. c 10 § 10; 2001 c 227 § 10.]

Findings—Intent—2001 c 227: See note following RCW 43.41.270.

43.155.080 Records and audits. The board shall keep proper records of accounts and shall be subject to audit by the state auditor. [1987 c 505 § 41; 1985 c 446 § 13.]

43.155.090 Loan agreements. Loans from the public works assistance account under this chapter shall be made by loan agreement under chapter 39.69 RCW. [1987 c 19 § 6.]

43.155.110 Puget Sound partners. In developing a priority process for public works projects under RCW 43.155.070, the board shall give preferences only to Puget Sound partners, as defined in RCW 90.71.010, over other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget Sound partners. [2007 c 341 § 25.]

Additional notes found at www.leg.wa.gov

43.155.120 Administering funds—Preference to an evergreen community. When administering funds under this chapter, the board shall give preference only to an evergreen community recognized under RCW 76.15.090 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community. [2021 c 209 § 17; 2008 c 299 § 30.]

Findings—Intent—2021 c 209: See note following RCW 76.15.005.

Additional notes found at www.leg.wa.gov

43.155.130 Intent—Local infrastructure assistance—Plan. (1) The legislature intends to modernize state programs that provide financial and technical assistance related to local infrastructure by: (a) Clarifying the policy objectives and priorities for state assistance for local infrastructure; (b) eliminating redundancy among the various state programs; (c) increasing the speed of delivering state assistance and the ability to respond to emerging needs; (d) maximizing the acquisition and use of federal funding sources; (e) ensuring transparency in state and federal assistance; (f) improving access to the lowest cost private market financing; and (g) ensuring accountability and the periodic review of progress.

(2) By November 1, 2011, the public works board must prepare and submit to the appropriate committees of the legislature an implementation plan for creating a reformed state system for providing local infrastructure assistance. In developing the plan, the board must consult with state agencies that provide infrastructure funding and technical assistance including, but not limited to, the departments of commerce, health, and ecology. The board must also work in cooperation with local governments or entities that benefit from infrastructure funding and technical assistance.

(3) The board, state agencies, and local partners must consider, among other things, consolidation of state appropriations to support policy-focused investments including water quality, safe drinking water, stormwater, economic development, access to private financing, solid waste and recycling, and flood levees. In addition, they must consider consolidating assistance packages, streamlining application processes, and clarify the respective responsibilities of state and local agencies in planning for, developing[,] and maintaining local public infrastructure.

(4) The implementation plan must include draft legislation and the organizational and budgetary changes necessary to implement the new system in time for the 2013-2015 budget cycle. [2011 1st sp.s. c 48 § 7028.]

Additional notes found at www.leg.wa.gov

43.155.140 Projects in areas impacted by the closure or potential closure of large coal-fired electric generation facilities. The board shall solicit qualifying projects to plan, design, and construct public works projects needed to attract new industrial and commercial activities in areas impacted by the closure or potential closure of large coal-fired electric generation facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW 36.70A.368. When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds shall give priority consideration to such projects. [2011 c 180 § 302.]

Findings—Purpose—2011 c 180: See note following RCW 80.80.010.

43.155.150 Interagency, multijurisdictional system improvement team. (Expires June 30, 2025.) (1) An interagency, multijurisdictional system improvement team must identify, implement, and report on system improvements that achieve the designated outcomes, including:

(a) Projects that maximize value, minimize overall costs and disturbance to the community, and ensure long-term durability and resilience;

(b) Projects that are designed to meet the unique needs of each community, rather than the needs of particular funding programs;

(c) Project designs that maximize long-term value by fully considering and responding to anticipated long-term environmental, technological, economic and population changes;

(d) The flexibility to innovate, including utilizing natural systems, addressing multiple regulatory drivers, and forming regional partnerships;

(e) The ability to plan and collaborate across programs and jurisdictions so that different investments are packaged to be complementary, timely, and responsive to economic and community opportunities;

(f) The needed capacity for communities, appropriate to their unique financial, planning, and management capacities, so they can design, finance, and build projects that best meet their long-term needs and minimize costs;

(2022 Ed.)

(g) Optimal use and leveraging of federal and private infrastructure dollars; and

(h) Mechanisms to ensure periodic, systemwide review and ongoing achievement of the designated outcomes.

(2) The system improvement team must consist of representatives of state infrastructure programs that provide funding for drinking water, wastewater, stormwater, and broadband programs, including but not limited to representatives from the public works board, department of ecology, department of health, and the department of commerce. The system improvement team may invite representatives of other infrastructure programs, such as transportation, energy, and broadband, as needed in order to achieve efficiency, minimize costs, and maximize value across infrastructure programs. The system improvement team shall also consist of representatives of users of those programs, representatives of infrastructure project builders, and other parties the system improvement team determines would contribute to achieving the desired outcomes, including but not limited to representatives from a state association of cities, a state association of counties, a state association of public utility districts, a state association of water and sewer districts, a state association of general contractors, and a state organization representing building trades. The public works board, a representative from the department of ecology, department of health, and department of commerce shall facilitate the work of the system improvement team.

(3) The system improvement team must focus on achieving the designated outcomes within existing program structures and authorities. The system improvement team shall use lean practices to achieve the designated outcomes.

(4) The system improvement team shall provide briefings as requested to the public works board on the current state of infrastructure programs to build an understanding of the infrastructure investment program landscape and the interplay of its component parts.

(5) If the system improvement team encounters statutory or regulatory barriers to system improvements, the system improvement team must inform the public works board and consult on possible solutions. When achieving the designated outcomes would be best served through changes in program structures or authorities, the system improvement team must report those findings to the public works board.

(6) By September 1, 2022, in compliance with RCW 43.01.036, the system improvement team must submit a report to the appropriate committees of the legislature that includes the following:

(a) A list of all projects funded by members of the system improvement team;

(b) A description of the coordination the system improvement team has completed with other grant programs and funds leveraged; and

(c) A description of regional planning that has occurred.

(7) This section expires June 30, 2025. [2021 c 332 § 7033; 2021 c 190 § 1. Prior: 2017 3rd sp.s. c 10 § 11.]

Reviser's note: This section was amended by 2021 c 190 § 1 and by 2021 c 332 § 7033, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2021 c 332: See note following RCW 43.19.501.

43.155.160 Broadband service expansion grant and loan program—Emergency public works broadband projects. (1) The board, in collaboration with the office, shall establish a competitive grant and loan program to award funding to eligible applicants in order to promote the expansion of access to broadband service in unserved areas of the state.

(2)(a) Grants and loans may be awarded under this section to assist in funding acquisition, installation, and construction of middle mile and last mile infrastructure that supports broadband services and to assist in funding strategic planning for deploying broadband service in unserved areas.

(b) The board may choose to fund all or part of an application for funding, provided that the application meets the requirements of subsection (11) of this section.

(3) Eligible applicants for grants and loans awarded under this section include:

- (a) Local governments;
- (b) Tribes;
- (c) Nonprofit organizations;
- (d) Cooperative associations;
- (e) Multiparty entities comprised of public entity members;
- (f) Limited liability corporations organized for the purpose of expanding broadband access; and
- (g) Incorporated businesses or partnerships.

(4)(a) The board shall develop administrative procedures governing the preapplication and award process. The board shall act as fiscal agent for the program and is responsible for receiving and reviewing applications and awarding funds under this section.

(b) At least sixty days prior to the first day preapplications may be submitted each fiscal year, the board must publish on its website the specific criteria and any quantitative weighting scheme or scoring system that the board will use to evaluate or rank applications and award funding.

(c) The board may maintain separate accounting in the statewide broadband account created in RCW 43.155.165 as the board deems necessary to carry out the purposes of this section.

(d) The board must provide a method for the allocation of loans, grants, provision of technical assistance, and interest rates under this section.

(5) An applicant for a grant or loan under this section must provide the following information on the preapplication:

- (a) The location and description of the project;
- (b) Evidence regarding the unserved nature of the community in which the project is to be located;
- (c) Evidence that proposed infrastructure will be capable of scaling to greater download and upload speeds;
- (d) The number of households passed that will gain access to broadband service as a result of the project or whose broadband service will be upgraded as a result of the project;
- (e) Evidence that before submission of the application, the applicant contacted, in writing, all entities providing broadband service near the proposed project area to ask each broadband service provider's plan to upgrade broadband service in the project area to speeds that meet or exceed the state's definition for broadband service as defined in RCW

43.330.530, within the time frame specified in the proposed grant or loan activities;

(f) If applicable, the broadband service providers' written responses to the inquiry made under (e) of this subsection;

(g) The proposed geographic broadband service area and the proposed broadband speeds in the form and manner prescribed by the board;

(h) Evidence of community support for the project; and

(i) Any additional information requested by the board.

(6) An applicant for a grant or loan under this section must provide the following information on the application:

(a) The final location and description of the project;

(b) Evidence that the proposed infrastructure will be capable of scaling to greater download and upload speeds;

(c) The number of households passed that will gain access to broadband service as a result of the project or whose broadband service will be upgraded as a result of the project;

(d) The estimated cost of retail services to end users facilitated by a project;

(e) The proposed actual download and upload speeds experienced by end users;

(f) Evidence of significant community institutions that will benefit from the proposed project;

(g) Anticipated economic, educational, health care, or public safety benefits created by the project;

(h) If available, a description of the applicant's user adoption assistance program and efforts to promote the use of newly available broadband services created by the project;

(i) The estimated total cost of the project;

(j) Other sources of funding for the project that will supplement any grant or loan award;

(k) A demonstration of the project's long-term sustainability, including the applicant's financial soundness, organizational capacity, and technical expertise;

(l) A strategic plan to maintain long-term operation of the infrastructure;

(m) If applicable, documentation describing the outcome of the broadband service providers' written responses to the inquiry made prior to or during the preapplication phase; and

(n) Any additional information requested by the board.

(7)(a) The board shall publish on its website for at least 30 days the proposed geographic broadband service area and the proposed broadband speeds for each proposed broadband project submitted in the preapplication period.

(b) The board shall, within three business days following the close of the preapplication cycle, publish on its website preapplications as described in subsection (5) of this section.

(c) The board shall set an objection period of at least 30 days.

(8)(a) Any existing broadband service provider near the proposed project area may submit in writing to the board an objection to a proposed broadband project. An objection must contain information demonstrating that:

(i) The project would result in overbuild, meaning that the objecting provider currently provides, or has begun construction to provide, broadband service to end users in the proposed project area at speeds equal to or greater than the speeds contained in the definition of broadband in *RCW 43.330.530(2); or

(ii) The objecting provider commits to complete construction of broadband infrastructure and provide broadband

service to end users in the proposed project area at speeds equal to or greater than the speeds contained in the definition of broadband in *RCW 43.330.530(2), no later than twenty-four months after the date awards are made under this section for the grant and loan cycle under which the preapplication was submitted.

(b) Objections submitted to the board under this subsection must be certified by affidavit.

(c) The board may evaluate the information submitted under this section by the objecting provider and must consider it in making a determination on the proposed broadband project objected to. The board may request clarification or additional information. The board may choose to not fund a project if the board determines that the objecting provider's commitment to provide broadband service that meets the requirements of (a) of this subsection in the proposed project area is credible. In assessing the commitment, the board may consider whether the objecting provider has or will provide a bond, letter of credit, or other indicia of financial commitment guaranteeing the project's completion.

(d) If the board denies funding to an applicant as a result of a broadband service provider's objection made under this section, and the broadband service provider does not fulfill its commitment to provide broadband service in the project area, then for the following two grant and loan cycles, the board is prohibited from denying funding to an applicant on the basis of a challenge by the same broadband service provider, unless the board determines that the broadband service provider's failure to fulfill the provider's commitment was the result of factors beyond the broadband service provider's control. The board is not prohibited from denying funding to an applicant for reasons other than an objection by the same broadband service provider.

(e) An applicant or broadband service provider that objected to the application may request a debriefing conference regarding the board's decision on the application. Requests for debriefing must be coordinated by the office and must be submitted in writing in accordance with procedures specified by the office.

(f) Confidential business and financial information submitted by an objecting provider under this subsection is exempt from disclosure under chapter 42.56 RCW.

(9)(a) In evaluating applications and awarding funds, the board shall give priority to applications that are constructed in areas identified as unserved.

(b) In evaluating applications and awarding funds, the board may give priority to applications that:

(i) Provide assistance to public-private partnerships deploying broadband infrastructure from areas currently served with broadband service to areas currently lacking access to broadband services;

(ii) Demonstrate project readiness to proceed;

(iii) Construct infrastructure that is open access, meaning that during the useful life of the infrastructure, service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employing accountable interconnection arrangements published and available publicly;

(iv) Are submitted by tribal governments whose reservations are in rural and remote areas where reliable and efficient

broadband services are unavailable to many or most residents;

(v) Bring broadband service to tribal lands, particularly to rural and remote tribal lands or areas servicing rural and remote tribal entities;

(vi) Are submitted by tribal governments in rural and remote areas that have spent significant amounts of tribal funds to address the problem but cannot provide necessary broadband services without either additional state support, additional federal support, or both;

(vii) Serve economically distressed areas of the state as the term "distressed area" is defined in RCW 43.168.020;

(viii) Offer new or substantially upgraded broadband service to important community anchor institutions including, but not limited to, libraries, educational institutions, public safety facilities, and health care facilities;

(ix) Facilitate the use of telemedicine and electronic health records, especially in deliverance of behavioral health services and services to veterans;

(x) Provide technical support and train residents, businesses, and institutions in the community served by the project to utilize broadband service;

(xi) Include a component to actively promote the adoption of newly available broadband services in the community;

(xii) Provide evidence of strong support for the project from citizens, government, businesses, and community institutions;

(xiii) Provide access to broadband service to a greater number of unserved households and businesses, including farms;

(xiv) Utilize equipment and technology demonstrating greater longevity of service;

(xv) Seek the lowest amount of state investment per new location served and leverage greater amounts of funding for the project from other private and public sources;

(xvi) Include evidence of a customer service plan;

(xvii) Consider leveraging existing broadband infrastructure and other unique solutions;

(xviii) Benefit public safety and fire preparedness; or

(xix) Demonstrate other priorities as the board, in collaboration with the office, may prescribe by rule.

(c) The board shall endeavor to award funds under this section to qualified applicants in all regions of the state.

(d) The board shall consider affordability and quality of service to end users in making a determination on any application.

(e) The board, in collaboration with the office, may develop additional rules for eligibility, project preapplications, project applications, the associated objection process, and funding priority, as provided under this subsection and subsections (3), (5), (6), (7), and (8) of this section.

(f) The board, in collaboration with the office, may adopt rules for a voluntary nonbinding mediation between incumbent providers and applicants to the grant and loan program created in this section.

(10) To ensure a grant or loan to a private entity under this section primarily serves the public interest and benefits the public, any such grant or loan must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years.

(11)(a) No funds awarded under this section may fund more than fifty percent of the total cost of the project, except as provided in (b) of this subsection.

(b) The board may choose to fund up to ninety percent of the total cost of a project in financially distressed areas as the term "distressed area" is defined in RCW 43.168.020, and in areas identified as Indian country as the term "Indian country" is defined in WAC 458-20-192.

(c) Funds awarded to a single project under this section must not exceed two million dollars, except that the board may choose to fund projects qualifying for the exception in (b) of this subsection up to, but not to exceed, five million dollars.

(12) The board shall have such rights of recovery in the event of default in payment or other breach of financing agreement as may be provided in the agreement or otherwise by law.

(13) The community economic revitalization board shall facilitate the timely transmission of information and documents from its broadband program to the board in order to effectuate an orderly transition.

(14)(a) Subject to rules promulgated by the board, the board may make low-interest or interest-free loans or grants to eligible applicants for emergency public works broadband projects. While developing rules, the board shall consider prioritizing broadband infrastructure projects that replace existing infrastructure impacted by an emergency, as described in (b) of this subsection.

(b) Emergency public works broadband projects include construction, repair, reconstruction, replacement, rehabilitation, or improvement to critical broadband infrastructure that has been made necessary by a natural disaster or damaged by unforeseen events. To ensure limited resources are provided as efficiently as possible, the board shall grant priority to emergency public works projects that replace existing infrastructure of the provider whose facilities were damaged by the unforeseen event and shall not provide funds to a new provider to overbuild the existing provider. The loans or grants may be used to help fund all or part of an emergency public works broadband infrastructure project less any reimbursement from any of the following sources: (i) Federal disaster or emergency funds, including funds from the federal emergency management agency; (ii) state disaster or emergency funds; (iii) insurance settlements; and (iv) litigation.

(c) Eligible applicants for grants and loans awarded under this subsection are the same as those described in subsection (3) of this section.

(15) The definitions in RCW 43.330.530 apply throughout this section unless the context clearly requires otherwise.

(16) For purposes of this section, a "proposed broadband project" means a project that has been submitted as a preapplication to the public works board. [2022 c 201 § 1; 2021 c 332 § 7040; 2019 c 365 § 7.]

***Reviser's note:** RCW 43.330.530 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (2) to subsection (4), effective July 1, 2023.

Effective date—2021 c 332: See note following RCW 43.19.501.

Findings—2019 c 365: See note following RCW 43.330.532.

43.155.165 Statewide broadband account. (1) The statewide broadband account is created in the state treasury.

Moneys received from appropriations by the legislature, the proceeds of bond sales when authorized by the legislature, repayment of loans, or any other lawful source must be deposited into the account for uses consistent with this section. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only:

(a) For grant and loan awards made under RCW 43.155.160, including costs incurred by the board to administer RCW 43.155.160;

(b) To contract for data acquisition, a statewide broadband demand assessment, or gap analysis;

(c) To supplement revenues raised by bonds sold by local governments for broadband infrastructure development; or

(d) To provide for state match requirements under federal law.

(3) The board must maintain separate accounting for any federal funds in the account.

(4) The definitions in RCW 43.330.530 apply throughout this section unless the context clearly requires otherwise. [2019 c 365 § 8.]

Findings—2019 c 365: See note following RCW 43.330.532.

Chapter 43.157 RCW

PROJECTS OF STATEWIDE SIGNIFICANCE

Sections

43.157.005	Declaration.
43.157.010	Definitions.
43.157.020	Expediting completion of projects of statewide significance—Requirements of agreements.
43.157.030	Application for designation—Project facilitator or coordinator.

43.157.005 Declaration. The legislature declares that certain investments, such as investments for industrial development, environmental improvement, and innovation activities, merit special designation and treatment by governmental bodies when they are proposed. Such investments bolster the economies of their locale and impact the economy of the state as a whole. It is the intention of the legislature to recognize projects of statewide significance and to encourage local governments and state agencies to expedite their completion. [2009 c 421 § 1; 1997 c 369 § 1.]

Additional notes found at www.leg.wa.gov

43.157.010 Definitions. The definitions in this section apply throughout this chapter and RCW 28A.525.166, 43.21A.350, and 90.58.100, unless the context requires otherwise:

(1) "Applicant" means a person applying to the department for designation of a development project as a project of statewide significance.

(2) "Aviation biofuels production facility" means a facility primarily for the processing of nonfossil biogenic feedstocks to produce aviation fuels that meet the fuel quality technical standards of the American society for testing materials for aviation fuels and coproducts.

(3) "Department" means the department of commerce.

(4) "Manufacturing" shall have the meaning assigned it in RCW 82.62.010.

(5)(a) "Project of statewide significance" means:

(i) A border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces;

(ii) A development project that will provide a net environmental benefit;

(iii) A development project in furtherance of the commercialization of innovations;

(iv) A private industrial development with private capital investment in manufacturing or research and development;

(v) An aviation biofuels production facility;

(vi) A pumped storage project using water rights approved by the legislature for that purpose; or

(vii) A project designated by the legislature and codified under this chapter.

(b) To qualify for designation under RCW 43.157.030 as a project of statewide significance:

(i) The project must be completed after January 1, 2009;

(ii) The applicant must submit an application to the department for designation as a project of statewide significance to the department of commerce; and

(iii) Except for an aviation biofuels production facility, the project must have:

(A) In counties with a population less than or equal to twenty thousand, a capital investment of five million dollars;

(B) In counties with a population greater than twenty thousand but no more than fifty thousand, a capital investment of ten million dollars;

(C) In counties with a population greater than fifty thousand but no more than one hundred thousand, a capital investment of fifteen million dollars;

(D) In counties with a population greater than one hundred thousand but no more than two hundred thousand, a capital investment of twenty million dollars;

(E) In counties with a population greater than two hundred thousand but no more than four hundred thousand, a capital investment of thirty million dollars;

(F) In counties with a population greater than four hundred thousand but no more than one million, a capital investment of forty million dollars;

(G) In counties with a population greater than one million, a capital investment of fifty million dollars;

(H) In rural counties as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of fifty or greater;

(I) In counties other than rural counties as defined by RCW 82.14.370, projected full-time employment positions after completion of construction of one hundred or greater; or

(J) Been qualified by the director of the department as a project of statewide significance either because:

(I) The economic circumstances of the county merit the additional assistance such designation will bring;

(II) The impact on a region due to the size and complexity of the project merits such designation;

(III) The project resulted from or is in furtherance of innovation activities at a public research institution in the state or is in or resulted from innovation activities within an innovation partnership zone; or

(IV) The project will provide a net environmental benefit as evidenced by plans for design and construction under green building standards or for the creation of renewable

energy technology or components or under other environmental criteria established by the director in consultation with the director of the department of ecology.

A project may be qualified under this subsection (5)(b)(iii)(J) only after consultation on the availability of staff resources of the office of regulatory assistance.

(6) "Research and development" shall have the meaning assigned it in RCW 82.62.010. [2020 c 46 § 2; 2017 c 288 § 2. Prior: 2012 c 63 § 2; prior: 2009 c 565 § 34; 2009 c 421 § 2; 2004 c 275 § 63; 2003 c 54 § 1; 1997 c 369 § 2.]

Findings—2020 c 46: "(1) The legislature finds that Washington is a national leader in the transition to one hundred percent clean electricity, resulting in substantial reductions in the emissions of greenhouse gases. In 2012, the legislature authorized certain water rights to be used to enable a pumped storage project, codified as RCW 54.16.410. As more variable renewable energy facilities come online to facilitate the transition to our clean energy future, additional renewable energy storage facilities may be used in place of greenhouse gas emitting generation to integrate variable renewable energy. Expediting beneficial use of those authorized water rights for a pumped storage project will enable investment of more than one billion dollars in, and provide economic development to, a rural county, and facilitate construction and operation of additional renewable energy throughout the state and the west.

(2) The legislature further finds that certain studies indicate a resource adequacy shortfall on the region's electric grid by 2025 and it is in the interest of the state to expedite pump storage projects that will address this shortfall." [2020 c 46 § 1.]

Finding—2017 c 288: "The legislature finds that Washington is one of our nation's trade leaders, serving as a gateway to both international and interstate trade for the west. Clark county's population has grown by thirty percent over the past fifteen years. Recent southwest Washington regional transportation council data found a greater than fifty percent year-over-year increase in peak-hour vehicle and truck delays on the Interstate 5 corridor through Vancouver. Southwest Washington must find a path forward to establishing a unified plan for infrastructure investments that will serve as the basis for progress for the next one hundred years. The safety and economic well-being of our residents cannot wait. Legislators representing southwest Washington have set out some guiding principles that will enable a planning process to begin to select a new Interstate 5 bridge project that will serve as the foundation of an initial investment in the bridges that link Washington with Oregon, supporting critical trade routes, alleviating congestion, and improving safety." [2017 c 288 § 1.]

Findings—Intent—2014 c 174; 2012 c 63: "The legislature finds that Washington is becoming a leader in the development and commercialization of aviation biofuels due to its strong tradition of market innovation, a concentrated demand for sustainable aviation fuels, leading expertise and research capacity, an established aviation manufacturing sector, and the availability of a diverse range of feedstocks for the production of biofuels. The legislature also finds that the development of aviation biofuels has the potential to reduce dependence on foreign sources of fossil fuels, reduce greenhouse gas emissions, and promote economic development and jobs in Washington. The legislature intends to support the development of commercial-scale aviation biofuels production facilities in Washington by facilitating and streamlining the permitting process for new facilities and the expansion of existing facilities and by providing access to low-cost financing through the issuance of revenue bonds.

The legislature finds that the 2012 Washington state energy strategy calls for a targeted, strategic policy focus on sustainable aviation biofuels to encourage the realization of Washington's potential. The legislature also finds that a regional stakeholder effort to explore the opportunities and challenges surrounding the production of sustainable aviation fuels, known as sustainable aviation biofuels northwest, urged policymakers in the Northwest to develop supportive public policies that will jump start the industry, attract investment, and accelerate industry growth. In order to provide focus and develop policy recommendations to support the sustainable aviation biofuels sector in Washington, the legislature intends to establish a sustainable aviation biofuels work group." [2014 c 174 § 6; 2012 c 63 § 1.]

Additional notes found at www.leg.wa.gov

43.157.020 Expediting completion of projects of statewide significance—Requirements of agreements.

Counties and cities with development projects designated as projects of statewide significance within their jurisdictions shall enter into an agreement with the office of regulatory assistance and the project managers of projects of statewide significance for expediting the completion of projects of statewide significance. The agreement shall require:

- (1) Expedited permit processing for the design and construction of the project;
- (2) Expedited environmental review processing;
- (3) Expedited processing of requests for street, right-of-way, or easement vacations necessary for the construction of the project;
- (4) Participation of local officials on the team assembled under the requirements of RCW 43.157.030(3)(b);
- (5) A plan for consultation with affected tribes; and
- (6) Such other actions or items as are deemed necessary by the office of regulatory assistance for the design and construction of the project. [2020 c 46 § 3; 2009 c 421 § 3; 2003 c 54 § 2; 1997 c 369 § 3.]

Findings—2020 c 46: See note following RCW 43.157.010.

Additional notes found at www.leg.wa.gov

43.157.030 Application for designation—Project facilitator or coordinator. (1) The department of commerce shall:

(a) Develop an application for designation of development projects as projects of statewide significance. The application must be accompanied by a letter of approval from the legislative authority of any jurisdiction that will have the proposed project of statewide significance within its boundaries. No designation of a project as a project of statewide significance shall be made without such letter of approval. The letter of approval must state that the jurisdiction joins in the request for the designation of the project as one of statewide significance and has or will hire the professional staff that will be required to expedite the processes necessary to the completion of a project of statewide significance. The development project proponents may provide the funding necessary for the jurisdiction to hire the professional staff that will be required to so expedite. The application shall contain information regarding the location of the project, the applicant's average employment in the state for the prior year, estimated new employment related to the project, estimated wages of employees related to the project, estimated time schedules for completion and operation, and other information required by the department; and

(b) Designate a development project as a project of statewide significance if the department determines:

(i) After review of the application under criteria adopted by rule, the development project will provide significant economic benefit to the local or state economy, or both, the project is aligned with the state's comprehensive plan for economic development under *RCW 43.162.020, and, by its designation, the project will not prevent equal consideration of all categories of proposals under RCW 43.157.010; and

(ii) The development project meets or will meet the requirements of RCW 43.157.010 regarding designation as a project of statewide significance.

(2) Any project designated by the legislature and codified in this chapter is not subject to the application requirements set out in subsection (1) of this section.

(3) The office of regulatory assistance shall assign a project facilitator or coordinator to each project of statewide significance to:

(a) Assist in the scoping and coordinating functions provided for in chapter 43.42 RCW;

(b) Assemble a team of state and local government and private officials to help meet the planning, permitting, and development needs of each project, which team shall include those responsible for planning, permitting and licensing, infrastructure development, workforce development services including higher education, transportation services, and the provision of utilities; and

(c) Work with each team member to expedite their actions in furtherance of the project. [2017 c 288 § 3; 2009 c 421 § 4; 2003 c 54 § 3; 1997 c 369 § 4.]

*Reviser's note: RCW 43.162.020 was repealed by 2014 c 112 § 123.

Finding—2017 c 288: See note following RCW 43.157.010.

Additional notes found at www.leg.wa.gov

Chapter 43.160 RCW

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

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43.160.010 Findings. (1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed

which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment;

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment; and

(g) Enhancing job and business growth through facility development and other improvements in innovation partnership zones designated under RCW 43.330.270.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.

(3) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(4) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in the state.

(5) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

(6) The legislature finds that sharing economic growth statewide is important to the welfare of the state. The ability of communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic development. It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board and to authorize flexibility for available resources in these areas to help fund planning, predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification. [2012 c 225 § 2; 2008 c 327 § 1. Prior: 1999 c 164 § 101;

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1999 c 94 § 5; 1996 c 51 § 1; 1991 c 314 § 21; 1989 c 431 § 61; 1987 c 422 § 1; 1984 c 257 § 1; 1982 1st ex.s. c 40 § 1.]

Findings—Intent—1999 c 164: "The legislature finds that while Washington's economy is currently prospering, economic growth continues to be uneven, particularly as between metropolitan and rural areas. This has created in effect two Washingtons. One afflicted by inadequate infrastructure to support and attract investment, another suffering from congestion and soaring housing prices. In order to address these problems, the legislature intends to use resources strategically to build on our state's strengths while addressing threats to our prosperity." [1999 c 164 § 1.]

Legislative finding—Effective dates—1999 c 94: See notes following RCW 43.84.092.

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

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

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

(2) "Department" means the department of commerce.

(3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of: Bridges; roads; research, testing, training, and incubation facilities in areas designated as innovation partnership zones under RCW 43.330.270; buildings or structures; domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, and port facilities; all for the purpose of job creation, job retention, or job expansion.

(5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th. [2012 c 225 § 3; 2009 c 565 § 35. Prior: 2008 c 327 § 2; 2008 c 131 § 1; 2004 c 252 § 1; 1999 c 164 § 102; 1997 c 367 § 8; 1996 c 51 § 2; 1995 c 226 § 14; prior: 1993 c 320 § 1; 1993 c 280 § 55; 1992 c 21 § 3; 1991 c 314 § 22; 1985 c 466 § 58; 1985 c 6 § 12; 1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Findings—1991 c 314: "The legislature finds that:

(1) Cutbacks in allowable sales of old growth timber in Washington state pose a substantial threat to the region and the state with massive layoffs, loss of personal income, and declines in state revenues;

(2) The timber impact areas are of critical significance to the state because of their leading role in the overall economic well-being of the state and their importance to the quality of life to all residents of Washington, and that these regions require a special state effort to diversify the local economy;

(3) There are key opportunities to broaden the economic base in the timber impact areas including agriculture, high-technology, tourism, and regional exports; and

(4) A coordinated state, local, and private sector effort offers the greatest potential to promote economic diversification and to provide support for new projects within the region.

The legislature further finds that if a special state effort does not take place the decline in allowable timber sales may result in a loss of six thousand logging and milling jobs; two hundred million dollars in direct wages and benefits; twelve thousand indirect jobs; and three hundred million dollars in indirect wages and benefits.

It is the intent of the legislature to develop comprehensive programs to provide diversified economic development and promote job creation and employment opportunities for the citizens of the timber impact areas." [1991 c 314 § 1.]

Additional notes found at www.leg.wa.gov

43.160.030 Community economic revitalization board—Members—Terms—Chair, vice chair—Management services—Travel expenses—Vacancies—Removal.

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the director of commerce: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the director of commerce. The members of the board shall elect one of their members to serve as vice chair. The director of commerce, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter.

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the director of commerce shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the director of commerce, under chapter 34.05 RCW.

(6) A member appointed by the director of commerce may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the director of commerce.

(7) A majority of members currently appointed constitutes a quorum. [2011 1st sp.s. c 21 § 25; 2008 c 327 § 3; 2004 c 252 § 2; 2003 c 151 § 1; 1996 c 51 § 3; 1995 c 399 § 86; 1993 c 320 § 2. Prior: 1987 c 422 § 2; 1987 c 195 § 11; prior: 1985 c 446 § 2; 1985 c 6 § 13; prior: 1985 c 446 § 1; 1984 c 287 § 89; 1983 1st ex.s. c 60 § 2; 1982 1st ex.s. c 40 § 3.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

43.160.035 Designees for board members. Each member of the house of representatives who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member from the house of representatives to take his or her place on the board for meetings at which the member will be absent, as long as the designated member belongs to the same caucus. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each member of the senate who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member from the senate to take his or her place on the board for meetings at which the member will be absent, as long as the designated member belongs to the same caucus. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each agency head of an executive agency who is appointed to serve as a nonvoting advisory member of the community economic revitalization board under RCW 43.160.030 may designate an agency employee to take his or her place on the board for meetings at which the agency head will be absent. The designee will have all powers to participate in board deliberations as have the other board members but shall not have voting powers. [2003 c 151 § 2; 1993 c 320 § 3; 1987 c 422 § 3; 1985 c 446 § 4.]

43.160.040 Conflicts of interest—Code of ethics. In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no board member, appointive or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association which would be the recipient of any aid under this chapter. In any instance where the participation occurs, the board shall void the transaction, and the involved member shall be subject to whatever further sanctions may be provided by law. The board shall frame and adopt a code of ethics for its members, which shall be designed to protect the state and its citizens from any unethical conduct by the board. [1982 1st ex.s. c 40 § 4.]

43.160.050 Powers of board. The board may:

- (1) Adopt bylaws for the regulation of its affairs and the conduct of its business.
- (2) Adopt an official seal and alter the seal at its pleasure.
- (3) Utilize the services of other governmental agencies.
- (4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.

(5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.

(6) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.

(7) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

(8) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.

(9) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [2008 c 327 § 4; 1996 c 51 § 4; 1987 c 422 § 4; 1982 1st ex.s. c 40 § 5.]

Additional notes found at www.leg.wa.gov

43.160.060 Loans and grants to political subdivisions and federally recognized Indian tribes for public facilities authorized—Application—Requirements for financial assistance. (1) The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, no more than twenty-five percent of all financial assistance approved by the board in any biennium may consist of grants to political subdivisions and federally recognized Indian tribes.

(2) Application for funds must be made in the form and manner as the board may prescribe. In making grants or loans the board must conform to the following requirements:

(a) The board may not provide financial assistance:

(i) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(ii) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(iii) For a project the primary purpose of which is to facilitate or promote gambling.

(iv) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(b) The board may only provide financial assistance:

(i) For a project demonstrating convincing evidence that a specific private development or expansion is ready to occur

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and will occur only if the public facility improvement is made that:

(A) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board; and

(B) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities;

(ii) For a project that cannot meet the requirement of (b)(i) of this subsection but is a project that:

(A) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board;

(B) Is part of a local economic development plan consistent with applicable state planning requirements;

(C) Can demonstrate project feasibility using standard economic principles; and

(D) Is located in a rural community as defined by the board, or a rural county;

(iii) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project engineering, design, site planning, and project debt and revenue impacts, as grants not to exceed fifty thousand dollars.

(c) The board must develop guidelines for local participation and allowable match and activities.

(d) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(e) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(f) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(g) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the county-wide median hourly wage.

(h) The board must prioritize each proposed project according to:

(i) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed, but also giving consideration to the unemployment rate in the area in which the jobs would be located;

(ii) The rate of return of the state's investment, including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project;

(iii) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(iv) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should

maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements;

(v) Whether the applicant's permitting process has been certified as streamlined by the office of regulatory assistance; and

(vi) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

(i) A responsible official of the political subdivision or the federally recognized Indian tribe must be present during board deliberations and provide information that the board requests.

(3) Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board. [2014 c 112 § 108; 2012 c 196 § 10; 2008 c 327 § 5; 2007 c 231 § 3; 2004 c 252 § 3. Prior: 2002 c 242 § 4; 2002 c 239 § 1; 1999 c 164 § 103; 1996 c 51 § 5; 1993 c 320 § 4; 1990 1st ex.s. c 17 § 73; 1989 c 431 § 62; 1987 c 422 § 5; 1985 c 446 § 3; 1983 1st ex.s. c 60 § 3; 1982 1st ex.s. c 40 § 6.]

Findings—Recommendations—Reports encouraged—2007 c 231: See note following RCW 43.155.070.

Findings—Intent—2002 c 242: See note following RCW 43.84.092.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Additional notes found at www.leg.wa.gov

43.160.070 Conditions. Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving account shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter. The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the account.

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans, including partial forgiveness of loan principal and interest payments on projects located in rural communities as defined by the board, or rural counties. The loans shall not exceed twenty years in duration.

(3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving account. Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide

grants upon finding that unique circumstances exist. [2008 c 327 § 6; 1999 c 164 § 104; 1998 c 321 § 27 (Referendum Bill No. 49, approved November 3, 1998); 1997 c 235 § 721; 1996 c 51 § 6; 1990 1st ex.s. c 16 § 802; 1983 1st ex.s. c 60 § 4; 1982 1st ex.s. c 40 § 7.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Additional notes found at www.leg.wa.gov

43.160.074 Application—Request for improvements to existing highways—Procedures. (1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the department of transportation.

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the department of transportation as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the department of transportation as specified in RCW 47.01.280.

(4) The board shall notify the department of transportation of its decision regarding any application made under this section. [2008 c 327 § 7; 1985 c 433 § 5.]

Additional notes found at www.leg.wa.gov

43.160.076 Financial assistance in rural counties—Areas impacted by the closure or potential closure of large coal-fired electric generation facilities. (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter, the board shall approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties are clearly insufficient to use up the allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties.

(3) The board shall solicit qualifying projects to plan, design, and construct public facilities needed to attract new industrial and commercial activities in areas impacted by the

closure or potential closure of large coal-fired electric generation facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW 36.70A.368. When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds shall give priority consideration to such projects. [2011 c 180 § 301; 2008 c 327 § 8. Prior: 1999 c 164 § 105; prior: 1998 c 321 § 28 (Referendum Bill No. 49, approved November 3, 1998); 1998 c 55 § 4; 1997 c 367 § 9; 1996 c 51 § 7; 1995 c 226 § 15; 1993 c 320 § 5; 1991 c 314 § 24; 1985 c 446 § 6.]

Findings—Purpose—2011 c 180: See note following RCW 80.80.010.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

43.160.077 Applications—Processing of recyclable materials—Department of ecology notice. (1) When the board receives an application from a political subdivision that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, a copy of the application shall be sent by the board to the department of ecology.

(2) The board shall notify the department of ecology of its decision regarding any application made under this section. [1993 c 320 § 6; 1989 c 431 § 63.]

43.160.078 Board to familiarize government officials and public with chapter provisions. In order to enhance competition for grants and loans and the quality of projects for which loans and grants are sought, the board shall take such reasonable measures as are necessary to familiarize government officials and members of the public with the provisions of this chapter, particularly the board's authority to make grants and loans. [1985 c 446 § 5.]

43.160.080 Public facilities construction loan revolving account. There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter and any moneys appropriated to it by law. Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW. During the 2013-2015 biennium, amounts in the public facilities construction loan revolving account may be used for the animal disease traceability project in section 3247, chapter 19, Laws of 2013 2nd sp. sess., administered by the department of agriculture. During the 2013-2015 biennium, sums in the public facilities construction loan revolving account may be used for the clean energy partnership project in section 1038, chapter 19, Laws of 2013 2nd sp.

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sess. During the 2015-2017 biennium, sums in the public facilities construction loan revolving account may be used to continue and enhance the animal disease traceability project in section 3247, chapter 19, Laws of 2013 2nd sp. sess., administered by the department of agriculture. During the 2015-2017 biennium, sums in the public facilities construction loan revolving account may be used for the clean energy partnership project in section 1038, chapter 19, Laws of 2013 2nd sp. sess. [2015 3rd sp.s. c 3 § 7034; 2015 3rd sp.s. c 3 § 6029; 2010 1st sp.s. c 36 § 6011; 2008 c 327 § 11; 1998 c 321 § 30 (Referendum Bill No. 49, approved November 3, 1998); 1992 c 235 § 10; 1991 sp.s. c 13 § 115; 1987 c 422 § 6; 1984 c 257 § 12; 1983 1st ex.s. c 60 § 6; 1982 1st ex.s. c 40 § 8.]

Reviser's note: This section was amended by 2015 3rd sp.s. c 3 § 6029 and by 2015 3rd sp.s. c 3 § 7034, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2015 3rd sp.s. c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 30, 2015]." [2015 3rd sp.s. c 3 § 7045.]

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Additional notes found at www.leg.wa.gov

43.160.090 Records—Audits. The board and the department shall keep proper records of accounts and shall be subject to audit by the state auditor. [1996 c 51 § 8; 1987 c 505 § 42; 1982 1st ex.s. c 40 § 9.]

Additional notes found at www.leg.wa.gov

43.160.900 Community economic revitalization board—Evaluations of financial assistance—Reporting of evaluations. (1) The community economic revitalization board shall conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The evaluations shall include information on the number of applications for community economic revitalization board assistance; the number and types of projects approved; the grant or loan amount awarded each project; the projected number of jobs created or retained by each project; the actual number and cost of jobs created or retained by each project; the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans; and the number of project terminations. The evaluations may also include additional performance measures and recommendations for programmatic changes.

(2) The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. The initial evaluation must be submitted by December 31, 2010. [2014 c 112 § 109; 2008 c 327 § 9; 1993 c 320 § 8; 1987 c 422 § 10; 1985 c 446 § 25; 1982 1st ex.s. c 40 § 10.]

Additional notes found at www.leg.wa.gov

43.160.902 Captions not part of law—1984 c 257. As used in this act, captions constitute no part of the law. [1984 c 257 § 14.]

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AUTHORITY

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Bonds to finance conservation measures: RCW 43.19.695.

Public records: Chapter 42.56 RCW.

43.163.005 Purpose—Construction. Economic development is essential to the health, safety, and welfare of all Washington citizens by broadening and strengthening state and local tax bases, providing meaningful employment opportunities and thereby enhancing the quality of life. Economic development increasingly is dependent upon the ability of small-sized and medium-sized businesses and farms to finance growth and trade activities. Many of these businesses face an unmet need for capital that limits their growth. These unmet capital needs are a problem in both urban and rural areas which cannot be solved by the private sector alone. There presently exist some federal programs, private credit enhancements and other financial tools to complement the private banking industry in providing this needed capital. More research is needed to develop effective strategies to enhance access to capital and thereby stimulate economic development.

It is the purpose of this chapter to establish a state economic development finance authority to act as a financial conduit that, without using state funds or lending the credit of the state or local governments, can issue nonrecourse revenue bonds, and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses that cannot otherwise readily obtain needed capital on terms and rates comparable to large corporations, and can help local governments obtain capital more efficiently. It is also a primary purpose of this chapter to encourage the employment and retention of Washington workers at meaningful wages and to develop innovative approaches to the problem of unmet capital needs. This chapter is enacted to accomplish these and related purposes and shall be construed liberally to carry out its purposes and objectives. [1990 c 53 § 1; 1989 c 279 § 1.]

Findings—Purpose—1994 c 302: "The legislature finds that when public funds are used to support private enterprise, the public may gain through the creation of new jobs, the diversification of the economy, or higher quality jobs for existing workers. The legislature further finds that such returns on public investments are not automatic and that tax-based incentives, in particular, may result in a greater tax burden on businesses and individuals that are not eligible for the public support. It is the purpose of this *chapter to collect information sufficient to allow the legislature and the executive branch to make informed decisions about the merits of existing tax-based incentives and loan programs intended to encourage economic development in the state." [1994 c 302 § 1.]

***Reviser's note:** 1994 c 302 § 2 was vetoed. 1994 c 302 § 3 is a codification direction and 1994 c 302 § 4 is an emergency clause. The code reviser's office chose not to create a new chapter for the only remaining section, section 1.

43.163.010 Definitions. As used in this chapter, the following words and terms have the following meanings, unless the context requires otherwise:

(1) "Authority" means the Washington economic development finance authority created under RCW 43.163.020 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law;

(2) "Bonds" means any bonds, notes, debentures, interim certificates, conditional sales or lease financing agreements, lines of credit, forward purchase agreements, investment agreements, and other banking or financial arrangements, guaranties, or other obligations issued by or entered into by the authority. Such bonds may be issued on either a tax-exempt or taxable basis;

(3) "Borrower" means one or more public or private persons or entities acting as lessee, purchaser, mortgagor, or borrower who has obtained or is seeking to obtain financing either from the authority or from an eligible banking organization that has obtained or is seeking to obtain funds from the authority to finance a project. A borrower may include a party who transfers the right of use and occupancy to another party by lease, sublease or otherwise, or a party who is seeking or has obtained a financial guaranty from the authority;

(4) "Eligible banking organization" means any organization subject to regulation by the director of the department of financial institutions, any national bank, federal savings and loan association, and federal credit union located within this state;

(5) "Eligible export transaction" means any preexport or export activity by a person or entity located in the state of Washington involving a sale for export and product sale which, in the judgment of the authority: (a) Will create or maintain employment in the state of Washington, (b) will obtain a material percent of its value from manufactured goods or services made, processed or occurring in Washington, and (c) could not otherwise obtain financing on reasonable terms from an eligible banking organization;

(6) "Eligible farmer" means any person who is a resident of the state of Washington and whose specific acreage qualifying for receipts from the federal department of agriculture under its conservation reserve program is within the state of Washington;

(7) "Eligible person" means an individual, partnership, corporation, or joint venture carrying on business, or proposing to carry on business within the state and is seeking financial assistance under RCW 43.163.210;

(8) "Financial assistance" means the infusion of capital to persons for use in the development and exploitation of specific inventions and products;

(9) "Financing document" means an instrument executed by the authority and one or more persons or entities pertaining to the issuance of or security for bonds, or the application of the proceeds of bonds or other funds of, or payable to, the authority. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement or indenture, security agreement, letter or line of credit, reimbursement agreement, insurance policy, guaranty agreement, or currency or interest rate swap agreement. A financing document also may be an agreement between the authority and an eligible banking organization which has agreed to make a loan to a borrower;

(10) "Plan" means the general plan of economic development finance objectives developed and adopted by the authority, and updated from time to time, as required under RCW 43.163.090;

(11) "Economic development activities" means activities related to: Manufacturing, processing, research, production, assembly, tooling, warehousing, airports, docks and wharves, mass commuting facilities, high-speed intercity rail facilities, public broadcasting, pollution control, solid waste disposal, federally qualified hazardous waste facilities, energy generating, conservation, or transmission facilities, and sports facilities and industrial parks and activities conducted within a federally designated enterprise or empowerment zone or geographic area of similar nature;

(12) "Project costs" means costs of:

(a) Acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an economic development activity;

(b) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of an activity included under subsection (11) of this section, including costs of studies assessing the feasibility of an economic development activity;

(c) Finance costs, including the costs of credit enhancement and discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any financing document;

(d) Start-up costs, working capital, capitalized research and development costs, capitalized interest during construction and during the eighteen months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(e) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(f) Other costs incidental to any of the costs listed in this section;

(13) "Product" means a product, device, technique, or process that is or may be exploitable commercially. "Prod-

uct" does not refer to pure research, but shall be construed to apply to products, devices, techniques, or processes that have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice;

(14) "Financing agreements" means, and includes without limitation, a contractual arrangement with an eligible person whereby the authority obtains rights from or in an invention or product or proceeds from an invention or product in exchange for the granting of financial and other assistance to the person. [1999 c 294 § 1. Prior: 1994 c 238 § 1; 1994 c 92 § 498; 1989 c 279 § 2.]

Additional notes found at www.leg.wa.gov

43.163.020 Economic development finance authority created—Membership. The Washington economic development finance authority is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

The authority shall consist of eighteen [seventeen] members as follows: The director of the *department of community, trade, and economic development, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ten public members with one representative of women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The authority may select from its membership such other officers as it deems appropriate.

The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment, except that the term of three of the initial appointees shall be for two years from the date of appointment and the term of four of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If either of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing in such manner as is specified by the rules of the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter. The authority may borrow funds from the department for the purpose of reimbursing members for expenses; however, the authority shall repay the department as soon as practicable.

A majority of the authority shall constitute a quorum. [1995 c 399 § 89; 1990 c 53 § 2; 1989 c 279 § 3.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.163.030 Small businesses—Funding of export transactions. (1) The authority, in cooperation with the small business export finance assistance center and other export assistance entities, is authorized to develop and conduct a program or programs to provide for the funding of export transactions for small businesses which are unable to obtain funding from private commercial lenders.

(2) The authority is authorized to secure or provide guaranties or insurance for loans and otherwise to provide for loans for any eligible export transaction. Loans may be made either directly by the authority or through an eligible banking organization. For such purpose, the authority may use funds legally available to it to provide for insurance or to guarantee eligible export transactions for which guaranteed funding has been provided.

(3) The authority shall make every effort to cause guaranties or insurance to be provided from the export-import bank of the United States, the foreign credit insurance association, the small business administration or such other similar or succeeding federal or private programs whose financial performance in the guarantee or insurance of export transactions is sound and recognized in the financial community. The maximum amount payable under any guaranty shall be specifically set forth in writing at the time any such guaranteed funding is entered into by the authority.

(4) Prior to providing or securing a guarantee of funding or otherwise providing for a loan for any eligible export transaction hereunder, the authority shall obtain assurance that there has been made an investigation of the credit of the exporter in order to determine its viability, the economic benefits to be derived from the eligible export transaction, the prospects for repayment, and such other facts as it deems necessary in order to determine that such guaranteed funding is consistent with the purposes of this chapter. [1989 c 279 § 4.]

Small business export finance assistance center: Chapter 43.210 RCW.

43.163.040 Farmers—Advance financing, agriculture conservation reserve program. To provide capital for economic development purposes, the authority is authorized to develop and conduct a program or programs to provide advance financing to eligible farmers in respect of the contract payments due to them under the federal department of agriculture conservation reserve program. Such advance

financing may be provided in the form of lease, sale, loan or other similar financing transactions. [1989 c 279 § 5.]

43.163.050 Pooling of loans. The authority is authorized to develop and conduct a program or programs to promote small business and agricultural financing in the state through the pooling of loans or portions of loans made or guaranteed through programs administered by federal agencies including the small business or farmers home administrations. For such purpose, the authority may acquire from eligible banking organizations and other financial intermediaries who make or hold loans made or guaranteed through programs administered by the federal small business or farmers home administrations all or portions of such loans, and the authority may contract or coordinate with parties authorized to acquire or pool loans made or guaranteed by a federal agency or with parties authorized to administer such loan or guarantee programs. [1990 c 53 § 3; 1989 c 279 § 6.]

43.163.060 Scope of authority's powers—Duties of other agencies. (1) The authority is authorized to participate fully in federal and other governmental economic development finance programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements.

(2) The authority shall coordinate its programs with those contributing to a common purpose found elsewhere in the departments of *community, trade, and economic development, agriculture or employment security, or any other department or organization of, or affiliated with, the state or federal government, and shall avoid any duplication of such activities or programs provided elsewhere. The departments of *community, trade, and economic development, agriculture, employment security and other relevant state agencies shall provide to the authority all reports prepared in the course of their ongoing activities which may assist in the identification of unmet capital financing needs by small-sized and medium-sized businesses in the state. [1995 c 399 § 90; 1989 c 279 § 7.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.163.070 Use of funds. The authority may use any funds legally available to it for any purpose specifically authorized by this chapter, or for otherwise improving economic development in this state by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons: PROVIDED, That no funds of the state shall be used for such purposes. [1990 c 53 § 4; 1989 c 279 § 8.]

43.163.080 General operating procedures. (1) The authority shall adopt general operating procedures for the authority. The authority shall also adopt operating procedures for individual programs as they are developed for obtaining funds and for providing funds to borrowers. These operating procedures shall be adopted by resolution prior to the authority operating the applicable programs.

(2) The operating procedures shall include, but are not limited to: (a) Appropriate minimum reserve requirements to secure the authority's bonds and other obligations; (b) appropriate standards for securing loans and other financing the authority provides to borrowers, such as guarantees or collateral; and (c) strict standards for providing financing to borrowers, such as (i) the borrower is a responsible party with a high probability of being able to repay the financing provided by the authority, (ii) the financing is reasonably expected to provide economic growth or stability in the state by enabling a borrower to increase or maintain jobs or capital in the state, (iii) the borrowers with the greatest needs or that provide the most public benefit are given higher priority by the authority, and (iv) the financing is consistent with any plan adopted by the authority under RCW 43.163.090. [1994 c 238 § 2; 1990 c 53 § 5; 1989 c 279 § 9.]

Additional notes found at www.leg.wa.gov

43.163.090 Economic development finance objectives plan. The authority shall adopt a general plan of economic development finance objectives to be implemented by the authority during the period of the plan. The authority may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the authority shall consider and set objectives for:

- (1) Employment generation associated with the authority's programs;
- (2) The application of funds to sectors and regions of the state economy evidencing need for improved access to capital markets and funding resources;
- (3) Geographic distribution of funds and programs available through the authority;
- (4) Eligibility criteria for participants in authority programs;
- (5) The use of funds and resources available from or through federal, state, local, and private sources and programs;
- (6) Standards for economic viability and growth opportunities of participants in authority programs;
- (7) New programs which serve a targeted need for financing assistance within the purposes of this chapter; and
- (8) Opportunities to improve capital access as evidenced by programs existent in other states or as they are made possible by results of private capital market circumstances.

The authority shall, as part of the finance plan required under this section, develop an outreach and marketing plan designed to increase its financial services to rural counties. As used in this section, "rural counties" means counties smaller than two hundred twenty-five square miles or as defined in RCW 43.168.020.

At least one public hearing shall be conducted by the authority on the plan prior to its adoption. The plan shall be adopted by resolution of the authority no later than November 15, 1990. The authority may periodically update the plan as determined necessary by the authority. The plan or updated plan shall include a report on authority activities conducted since the commencement of authority operation or since the last plan was reported, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the plan. Upon adoption, the authority shall conduct its programs in observance of the objectives

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established in the plan. [2001 c 304 § 1; 1998 c 245 § 50; 1997 c 257 § 1; 1989 c 279 § 10.]

Additional notes found at www.leg.wa.gov

43.163.100 Powers of the authority. In addition to accomplishing the economic development finance programs specifically authorized in this chapter, the authority may:

- (1) Maintain an office or offices;
- (2) Sue and be sued in its own name, and plead and be impleaded;
- (3) Engage consultants, agents, attorneys, and advisers, contract with federal, state, and local governmental entities for services, and hire such employees, agents and other personnel as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (4) Make and execute all manner of contracts, agreements and instruments and financing documents with public and private parties as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (5) Acquire and hold real or personal property, or any interest therein, in the name of the authority, and to sell, assign, lease, encumber, mortgage, or otherwise dispose of the same in such manner as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (6) Open and maintain accounts in qualified public depositaries and otherwise provide for the investment of any funds not required for immediate disbursement, and provide for the selection of investments;
- (7) Appear in its own behalf before boards, commissions, departments, or agencies of federal, state, or local government;
- (8) Procure such insurance in such amounts and from such insurers as the authority deems desirable, including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and directors and officers liability insurance;
- (9) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of value, to be held, used and applied as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (10) Establish guidelines for the participation by eligible banking organizations in programs conducted by the authority under this chapter;
- (11) Act as an agent, by agreement, for federal, state, or local governmental entities to carry out the programs authorized in this chapter;
- (12) Establish, revise, and collect such fees and charges as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (13) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter: PROVIDED, That expenditures with respect to the economic development financing programs of the authority shall not be made from funds of the state;
- (14) Establish such reserves and special funds, and controls on deposits to and disbursements from them, as the authority deems necessary, useful, or convenient to accomplish its purposes;

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(15) Give assistance to public bodies by providing information, guidelines, forms, and procedures for implementing their financing programs;

(16) Prepare, publish and distribute, with or without charge, such studies, reports, bulletins, and other material as the authority deems necessary, useful, or convenient to accomplish its purposes;

(17) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(18) Adopt rules concerning its exercise of the powers authorized by this chapter; and

(19) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter. [1990 c 53 § 6; 1989 c 279 § 11.]

Bonds to finance conservation measures: RCW 43.19.695.

43.163.110 Restrictions on authority's activity. Notwithstanding any other provision of this chapter, the authority shall not:

(1) Give any state money or property or loan any state money or credit to or in aid of any individual, association, company, or corporation, or become directly or indirectly the owner of any stock in or bonds of any association, company, or corporation;

(2) Issue bills of credit or accept deposits of money for time or demand deposit, administer trusts, engage in any form or manner in, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association other than as provided in this chapter;

(3) Be or constitute a bank or trust company within the jurisdiction or under the control of the director of financial institutions, the comptroller of the currency of the United States of America or the treasury department thereof;

(4) Be or constitute a bank, broker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' law of the United States of America or the state;

(5) Engage in the financing of housing as provided for in chapter 43.180 RCW;

(6) Engage in the financing of health care facilities as provided for in chapter 70.37 RCW; or

(7) Engage in financing higher education facilities as provided for in chapter 28B.07 RCW. [1994 c 92 § 499; 1989 c 279 § 12.]

43.163.120 Staffing, restrictions—Authority not to receive appropriated state funds. The authority shall receive no appropriation of state funds. The *department of community, trade, and economic development shall provide staff to the authority, to the extent permitted by law, to enable the authority to accomplish its purposes; the staff from the *department of community, trade, and economic development may assist the authority in organizing itself and in designing programs, but shall not be involved in the issuance of bonds or in making credit decisions regarding financing provided to borrowers by the authority. [1998 c 245 § 51; 1994 c 238 § 3; 1989 c 279 § 13.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.163.130 Nonrecourse revenue bonds—Issuance.

(1) The authority may issue its nonrecourse revenue bonds in order to obtain the funds to carry out the programs authorized in this chapter. The bonds must be special obligations of the authority, payable solely out of the special fund or funds established by the authority for their repayment.

(2) Any bonds issued under this chapter may be secured by a financing document between the authority and the purchasers or owners of such bonds or between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(a) The financing document may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof.

(b) The financing document may contain such provisions for protecting and enforcing the rights, security, and remedies of bondowners as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event of default which may include the acceleration of maturities, restrictions on the individual rights of action by bondowners, and covenants setting forth duties of and limitations on the authority in conduct of its programs and the management of its property.

(c) In addition to other security provided in this chapter or otherwise by law, bonds issued by the authority may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the authority or a trustee or any other person, by any bank, trust company, insurance or surety company or other financial institution, within or without the state. The authority may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the authority to any issuer of such letter of credit of any payments made under such letter of credit.

(3) Without limiting the powers of the authority contained in this chapter, in connection with each issue of its obligation bonds, the authority must create and establish one or more special funds, including, but not limited to debt service and sinking funds, reserve funds, project funds, and such other special funds as the authority deems necessary, useful, or convenient.

(4) Any security interest created against the unexpended bond proceeds and against the special funds created by the authority is immediately valid and binding against the money and any securities in which the money may be invested without authority or trustee possession. The security interest must be prior to any party having any competing claim against the moneys or securities, without filing or recording under Article 9A of the Uniform Commercial Code, Title 62A RCW, and regardless of whether the party has notice of the security interest.

(5) The bonds may be issued as serial bonds, term bonds or any other type of bond instrument consistent with the provisions of this chapter. The bonds shall bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or

times; be in such denominations; be in such form; bear such privileges of transferability, exchangeability, and interchangeability; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time or times, and at such price or prices as the authority determines. The bonds must be executed by the manual or facsimile signatures of the authority's chair and either its secretary or executive director, and may be authenticated by the trustee (if the authority determines to use a trustee) or any registrar which may be designated for the bonds by the authority.

(6) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to maturity of, and to pay any redemption premium on, the outstanding bonds. Bonds issued for refunding purposes may be combined with bonds issued for the financing or refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the authority may enter into an agreement or agreements with a corporate trustee regarding the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of, the bonds to be redeemed.

(7) The bonds of the authority may be negotiable instruments under Title 62A RCW.

(8) Neither the members of the authority, nor its employees or agents, nor any person executing the bonds is personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(9) The authority may purchase its bonds with any of its funds available for the purchase. The authority may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with bondowners.

(10) The authority may not exceed one billion five hundred million dollars in total outstanding debt at any time.

(11) The state finance committee must be notified in advance of the issuance of bonds by the authority in order to promote the orderly offering of obligations in the financial markets. [2011 c 176 § 1; 2005 c 137 § 1. Prior: 2001 c 304 § 2; 2001 c 32 § 2; 1998 c 48 § 1; 1994 c 238 § 5; 1989 c 279 § 14.]

Bonds to finance conservation measures: RCW 43.19.695.

Additional notes found at www.leg.wa.gov

43.163.140 Nonrecourse revenue bonds—Contracts—Restrictions. (1) Bonds issued by the authority under this chapter shall not be deemed to constitute obligations, either general, special or moral, of the state or of any political subdivision of the state, or pledge of the faith and credit of the state or of any political subdivision, or general obligations of the authority. The bonds shall be special obligations of the authority and shall be payable solely from the special fund or funds created by the authority for their repayment. The issuance of bonds under this chapter shall not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds. The substance of the limitations included in this paragraph shall be plainly printed, written, engraved, or reproduced on each bond and in any disclosure document prepared in conjunction with the offer and sale of bonds.

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(2) Neither the proceeds of bonds issued under this chapter nor any money used or to be used to pay the principal of, premium, if any, or interest on the bonds shall constitute public money or property. All of such money shall be kept segregated and set apart from funds of the state and any political subdivision of the state and shall not be subject to appropriation or allotment by the state or subject to the provisions of chapter 43.88 RCW.

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state. The obligations of the authority under such contracts shall be obligations only of the authority and shall not, in any way, constitute obligations of the state. [1989 c 279 § 15.]

43.163.150 Nonrecourse revenue bonds—Financing documents, scope. The authority may enter into financing documents with borrowers regarding bonds issued by the authority that may provide for the payment by each borrower of amounts sufficient, together with other revenues available to the authority, if any, to: (1) Pay the borrower's share of the fees established by the authority; (2) pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such borrower as the same shall become due and payable; and (3) create and maintain reserves required or provided for by the authority in connection with the issuance of such bonds. The payments shall not be subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the authority. [1989 c 279 § 16.]

43.163.160 Nonrecourse revenue bonds—Money received shall be trust funds. All money received by or on behalf of the authority with respect to this issuance of its bonds shall be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into trust agreement or indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(1) Perform all of any part of the obligations of the authority with respect to: (a) Bonds issued by it; (b) the receipt, investment and application of the proceeds of the bonds and money paid by a participant or available from other sources for the payment of the bonds; (c) the enforcement of the obligations of a borrower in connection with the financing or refinancing of any project; and (d) other matters relating to the exercise of the authority's powers under this chapter;

(2) Receive, hold, preserve, and enforce any security interest or evidence of security interest granted by a participant for purposes of securing the payment of the bonds; and

(3) Act on behalf of the authority or the owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due. [1989 c 279 § 17.]

43.163.170 Nonrecourse revenue bonds—Owner and trustee, enforcement of rights. Any owner of bonds of the authority issued under this chapter, and the trustee under any trust agreement or indenture, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and

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enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder, except to the extent the rights given are restricted by the authority in any bond resolution or trust agreement or indenture authorizing the issuance of the bonds. [1989 c 279 § 18.]

43.163.180 Nonrecourse revenue bonds as legal investment. The bonds or [of] the authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations and political subdivisions, all banks, eligible banking organizations, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control. [1989 c 279 § 19.]

43.163.190 Chapter as an alternative bond issuance method. This chapter provides a complete, additional and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1989 c 279 § 20.]

43.163.200 Construction. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter are controlling. [1989 c 279 § 21.]

43.163.210 Nonrecourse revenue bond financing—Economic development activities—New products. For the purpose of facilitating economic development in the state of Washington and encouraging the employment of Washington workers at meaningful wages:

(1) The authority may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for economic development activities.

(2) The authority may develop and conduct a program that will stimulate and encourage the development of new products within Washington state by the infusion of financial aid for invention and innovation in situations in which the financial aid would not otherwise be reasonably available from commercial sources. The authority is authorized to provide nonrecourse revenue bond financing for this program.

(a) For the purposes of this program, the authority shall have the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of financial and other assistance to the persons for the development of specific products, procedures, and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and accrue to it;

(ii) Own, possess, and take license in patents, copyrights, and proprietary processes and negotiate and enter into con-

tracts and establish charges for the use of the patents, copyrights, and proprietary processes when the patents and licenses for products result from assistance provided by the authority;

(iii) Negotiate royalty payments to the authority on patents and licenses for products arising as a result of assistance provided by the authority;

(iv) Negotiate and enter into other types of contracts with eligible persons that assure that public benefits will result from the provision of services by the authority; provided that the contracts are consistent with the state Constitution;

(v) Encourage and provide technical assistance to eligible persons in the process of developing new products;

(vi) Refer eligible persons to researchers or laboratories for the purpose of testing and evaluating new products, processes, or innovations; and

(vii) To the extent permitted under its contract with eligible persons, to consent to a termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement of any kind to which the authority is a party.

(b) Eligible persons seeking financial and other assistance under this program shall forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance shall be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application shall be approved or denied by the authority. The applicant shall be promptly notified of action by the authority. In making the decision as to approval or denial of an application, priority shall be given to those persons operating or planning to operate businesses of special importance to Washington's economy, including, but not limited to: (i) Existing resource-based industries of agriculture, forestry, and fisheries; (ii) existing advanced technology industries of electronics, computer and instrument manufacturing, computer software, and information and design; and (iii) emerging industries such as environmental technology, biotechnology, biomedical sciences, materials sciences, and optics.

(3) The authority may also develop and implement, if authorized by the legislature, such other economic development financing programs adopted in future general plans of economic development finance objectives developed under RCW 43.163.090. [2005 c 137 § 2; 2001 c 304 § 3; 1998 c 48 § 2; 1997 c 257 § 2; 1996 c 310 § 1; 1994 c 238 § 4.]

Additional notes found at www.leg.wa.gov

Chapter 43.166 RCW

STATE LANDS DEVELOPMENT AUTHORITIES

Sections

43.166.010	Authorization—Formation.
43.166.020	Board of directors.
43.166.030	Powers.
43.166.040	Duties.
43.166.050	State lands development authority operating account.
43.166.060	State lands development authority capital account.
43.166.800	Ballard—Interbay state lands development authority—Authorization.

43.166.010 Authorization—Formation. (1) State lands development authorities are hereby authorized to oversee and manage the development or redevelopment of state-owned property that is within or adjacent to manufacturing industrial centers. Any property owned or managed by the department of natural resources is exempt from the provisions of this chapter.

(2) The legislative delegation from a district containing state-owned land that is included within, or is adjacent to, a manufacturing industrial center may propose the formation of a state lands development authority. The proposal must be presented in writing to the relevant legislative committees in both the house of representatives and the senate. The proposal must contain:

(a) The proposed general geographic boundaries of the state lands development authority; and

(b) Legislative findings relating to formation of the state lands development authority which find that:

(i) The state owns property within the boundaries of the proposed state lands development authority;

(ii) The state-owned land is located within or adjacent to a manufacturing industrial center;

(iii) The state agency with custodial responsibility for the property has completed an assessment regarding the current use, future use, and a projected date or conditions when the land is vacant, excess, or surplus to the mission of the state agency;

(iv) The legislature intends that the state lands development authority be appropriately funded and staffed; and

(v) The formation of a state lands development authority to oversee and manage the development or redevelopment of the state-owned land will be useful and beneficial to the community within and adjacent to the boundaries of the state lands development authority.

(3) Formation of a state lands development authority is subject to legislative authorization by statute.

(4) A state lands development authority may only be formed in a county with a population of 2,000,000 or greater.

(5) For the purposes of this chapter, all state lands development authorities are a public body corporate and politic and instrumentality of the state of Washington. [2022 c 259 § 1.]

43.166.020 Board of directors. (1) The affairs of a state lands development authority shall be managed by a board of directors.

(2) The initial board of directors of a state lands development authority must be appointed by the governor upon recommendation from the state legislative delegation from the

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district in which the boundaries of the state lands development authority are contained.

(3) The number of persons on the board of directors must be included in the proposal to establish a state lands development authority under RCW 43.166.010.

(4) Members of the board of directors must include:

(a) At least one member representing each of the following:

(i) The governing body of each city included in the boundaries of the state lands development authority;

(ii) The mayor's office of each city included in the boundaries of the state lands development authority;

(iii) The governing body of each county included in the boundaries of the state lands development authority; and

(iv) The governing body of each port district included in the boundaries of the state lands development authority;

(b) Additional members if required by the proposal to establish a state lands development authority under RCW 43.166.010; and

(c) Ex officio, nonvoting members if required by the proposal to establish a state lands development authority under RCW 43.166.010.

(5) In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no state lands development authority board member, appointed or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association that would be the recipient of any gain or benefit resulting from transactions with the state lands development authority. In any instance where the participation occurs, the board shall void the transaction, and the involved member shall be subject to whatever sanctions may be provided by law. The board shall frame and adopt a code of ethics for its members, which must be designed to protect the state and its citizens from any unethical conduct by the board. [2022 c 259 § 2.]

43.166.030 Powers. (1) State lands development authorities have the power to:

(a) Accept gifts, grants, loans, or other aid from public and private entities;

(b) Employ and appoint such agents, attorneys, officers, and employees as may be necessary to implement its purposes and duties;

(c) Contract and enter into partnerships with individuals, associations, corporations, and local, state, and federal governments;

(d) Buy, own, and lease real and personal property;

(e) Sell real and personal property, subject to any rules and restrictions contained in the proposal to establish a state lands development authority under RCW 43.166.010;

(f) Hold in trust, improve, and develop land;

(g) Invest, deposit, and reinvest its funds;

(h) Incur debt in furtherance of its mission: Provided, however, that state lands development authorities are expressly prohibited from incurring debt on behalf of the state of Washington as defined in Article VIII, section 1 of the state Constitution. A state lands development authority obligation to repay borrowed money does not constitute an obligation, either general, special, or moral, of the state of

Washington. State lands development authorities are expressly prohibited from using, either directly or indirectly, "general state revenues" as defined in Article VIII, section 1 of the state Constitution to satisfy any state lands development authority obligation to repay borrowed money;

(i) Lend or grant its funds for any lawful purposes. For purposes of this section, "lawful purposes" includes without limitation, any use of funds, including loans thereof to public or private parties, authorized by agreements with the United States or any department or agency thereof under which federal or private funds are obtained, or authorized under federal laws and regulations pertinent to such agreements; and

(j) Exercise such additional powers as may be authorized by law.

(2) A state lands development authority that accepts public funds under subsection (1)(a) of this section:

(a) Is subject in all respects to Article VIII, section 5 or 7, as appropriate, of the state Constitution, and RCW 42.17A.550; and

(b) May not use such funds to support or oppose a candidate, ballot proposition, political party, or political committee.

(3) State lands development authorities do not have any authority to levy taxes or assessments. [2022 c 259 § 3.]

43.166.040 Duties. A state lands development authority has the duty to:

(1) Adopt bylaws for the authority that will govern how the authority will generally conduct its affairs;

(2) Establish specific geographic boundaries for the authority with its bylaws based on the general geographic boundaries established in the proposal approved by the legislature;

(3) Assume responsibility for the development or redevelopment of the state-owned property within the boundaries of the authority;

(4) Create a strategic plan for the development or redevelopment of the state-owned property that includes, but is not limited to, the following elements:

(a) An examination of the existing uses of the property and an assessment of whether such should change in the future in order for the use of the property to achieve maximum public benefit;

(b) An examination of options for development or redevelopment that include industrial uses only, mixed-use commercial and residential development, and mixed-use light industrial and residential development, as well as the incorporation of community-oriented facilities, and an evaluation of which options would achieve maximum public benefit;

(c) A plan for extensive public engagement throughout the development or redevelopment process, which must include a regular schedule of public meetings and opportunities for public comment; and

(d) A financial plan for the authority that identifies funding sources necessary to carry out the authority's strategic plan;

(5) Use gifts, grants, loans, and other aid from public or private entities to further the development and redevelopment projects identified in the authority's strategic plan; and

(6) Submit a written report to the relevant committees of the legislature by December 1st of each even-numbered year

that summarizes the authority's strategic plan and details the progress of the authority in meeting its strategic goals related to development and redevelopment, public engagement, and financial planning. [2022 c 259 § 4.]

43.166.050 State lands development authority operating account. The state lands development authority operating account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for operating expenses under this chapter. [2022 c 259 § 5.]

43.166.060 State lands development authority capital account. The state lands development authority capital account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for capital projects under this chapter. [2022 c 259 § 6.]

43.166.800 Ballard—Interbay state lands development authority—Authorization. (1) The legislature finds:

(a) The state of Washington owns a property of approximately 25 acres in size located at 1601 West Armory Way within Seattle's Ballard-Interbay northend manufacturing industrial center and Interbay neighborhood, known as the Interbay property. The Interbay property was transferred to the state of Washington in 1971 with deed limitations which limit use of the property for national guard purposes only. The national guard currently uses the Interbay property for the Seattle readiness center, built in 1974. The national guard has determined that it must relocate from the Interbay property to another site, and an assessment has been completed pursuant to RCW 43.166.010(2)(b). Once the national guard facilities are funded and constructed and the national guard is relocated in a new, fully operational readiness center, and the department of defense has released its use restrictions on the property, the Interbay property will be available for redevelopment.

(b) The formation of a state lands development authority to oversee and manage the redevelopment of the Interbay property will be useful and beneficial to the community within and adjacent to the Interbay neighborhood in the city of Seattle. The legislature intends that the authority be appropriately funded and staffed.

(2)(a) The legislature authorizes the establishment of the Ballard-Interbay state lands development authority, which boundaries are coextensive with the boundaries of the Interbay property.

(b) The Ballard-Interbay state lands development authority is a public body corporate and politic and instrumentality of the state of Washington.

(3) The Ballard-Interbay state lands development authority may exercise its authority in furtherance of projects that are located only within the boundaries of the Interbay property.

(4) The Ballard-Interbay state lands development authority does not have site control or access until after the national guard relocation and may not sell the Interbay property or portions of the Interbay property to another entity.

(5) The affairs of the Ballard-Interbay state lands development authority shall be managed by a board of directors, consisting of the following members:

(a) One member with experience developing workforce or affordable housing;

(b) One member with knowledge of project financing options for public-private partnerships related to housing;

(c) Two members with architectural design and development experience related to industrial and mixed-use zoning;

(d) One member representing the port of Seattle;

(e) One member representing the governor's office;

(f) One member representing the King county council;

(g) One member representing the city of Seattle mayor's office;

(h) One member representing the Seattle city council; and

(i) The director of the department of commerce or the director's designee as an ex officio, nonvoting member.

(6) No member of the board of directors may hold office for more than four years. Board positions must be numbered one through 11 and the terms staggered as follows:

(a) Board members appointed to positions one through five shall serve two-year terms, and if reappointed, may serve no more than one additional two-year term.

(b) Board members initially appointed to positions six through 11 shall serve a three-year term only.

(c) Board members appointed to positions six through 11 after the initial three-year term shall serve two-year terms, and if reappointed, may serve no more than one additional two-year term.

(7) The initial board of directors of the Ballard-Interbay state lands development authority must be appointed by the governor upon recommendation from the legislative delegation from the district in which the boundaries of the authority are contained, as required by RCW 43.166.020(2). With respect to the appointment of subsequent boards of directors, the existing board members must develop a list of candidates for each position and deliver the recommendations to the members of the legislative delegation for the district in which the authority is located. The legislative delegation must present the list of candidates for recommendation to the governor for appointment to the board of directors. In developing the list of candidates, the board of directors must consider racial, gender, and geographic diversity so that the board may reflect the diversity of the community.

(8) In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no Ballard-Interbay state lands development authority board member, appointive or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association that would be the recipient of any gain or benefit resulting from transactions with the state lands development authority. In any instance where the participation occurs, the board shall void the transaction, and the involved member must be subject to whatever sanctions may be provided by law. The board shall frame and adopt a code of ethics for its members, which must be designed to protect the state and its citizens from any unethical conduct by the board.

(9) For purposes of this section, "Interbay property" means a state-owned property with deed limitations indicat-

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ing it may be used for national guard purposes only located at 1601 West Armory Way, consisting of approximately 25 acres of land within Seattle's Ballard-Interbay northend manufacturing industrial center and Interbay neighborhood. [2022 c 259 § 7.]

Chapter 43.167 RCW COMMUNITY PRESERVATION AND DEVELOPMENT AUTHORITIES

Sections

43.167.003	Definitions.
43.167.007	Purpose.
43.167.010	Formation—Board of directors.
43.167.020	Powers of authorities—Limitations.
43.167.030	Duties of authorities.
43.167.040	Community preservation and development authority account.
43.167.050	Role of state and local government agencies.
43.167.060	Pioneer Square-International district community preservation and development authority.
43.167.070	Central district community preservation and development authority.

43.167.003 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community" means a group of people who reside or work in the geographic area established by the community preservation and development authority board or the proposal to create the authority and who currently or historically share a distinct cultural identity or local history.

(2) "Community preservation and development authority" or "authority" means a public body corporate and politic and instrumentality of the state of Washington created by members of an impacted community.

(3) "Constituency" means the general membership of the community preservation and development authority, which membership must be open to all persons eighteen years of age and over who are residents, property owners, employees, or business persons within the geographic boundaries established by the authority or the proposal to create the authority.

(4) "Impacted community" means a community that has been adversely impacted by the construction of, or ongoing operation of, multiple major public facilities, public works, and capital projects with significant public funding or by other land use decisions.

(5) "Major public facilities project, public works project, or capital project with significant public funding" means any capital project whose total cost exceeds ten million dollars. On July 1, 2019, and on July 1st of each odd-numbered year thereafter, the capital project cost threshold must be adjusted by the capital project cost adjustment factor for inflation established by the office of financial management. [2021 c 47 § 1; 2019 c 447 § 3.]

Findings—2019 c 447: See note following RCW 43.167.007.

43.167.007 Purpose. (1) Community preservation and development authorities are hereby created to restore or enhance the health, safety, and economic well-being of communities adversely impacted by the construction of, or ongoing operation of, multiple major public facilities, public works, and capital projects with significant public funding or by other land use decisions.

(2) Community preservation and development authorities must have one or more of the following purposes:

- (a) To revitalize, enhance, and preserve the unique character of impacted communities;
- (b) To mitigate the adverse effects of multiple major public facilities projects, public works projects, or capital projects with significant public funding, a secure community transition facility as defined in RCW 71.09.020, or other land use decisions;
- (c) To restore a local area's sense of community;
- (d) To reduce the displacement of community members and businesses;
- (e) To stimulate the community's economic vitality;
- (f) To enhance public service provisions;
- (g) To improve the standard of living of community members; or
- (h) To preserve historic buildings or areas by returning them to economically productive uses that are compatible with or enhance their historic character. [2019 c 447 § 2.]

Findings—2019 c 447: "The legislature finds that:

- (1) Both state and local land use actions, such as the siting of major public facilities, public works, and capital projects with significant public funding, and other land use decisions, generally aim to accrue broad benefits to the people of Washington and local communities.
- (2) The local stakeholder community which bears the disproportionate costs of such a land use decision by absorbing the deleterious impacts of the decision are often overlooked or inadequately addressed. These impacts may include dislocation, displacement, and the overall disintegration of an identifiable existing community and its historical and cultural character.
- (3) The preservation and restoration of the character of such a community, and the community's historical and cultural character, are important public policy goals that can be achieved through the creation of community preservation and development authorities." [2019 c 447 § 1.]

43.167.010 Formation—Board of directors. (1) The residents, property owners, employees, or business owners of an impacted community may propose formation of a community preservation and development authority. The proposal to form a community preservation and development authority must be presented in writing to the appropriate legislative committee in both the house of representatives and the senate. The proposal must contain proposed general geographic boundaries that will be used to define the community for the purposes of the authority. Proposals presented after January 1, 2020, must identify in its proposal one or more stable revenue sources that (a) have a nexus with the multiple publicly funded facilities or other land use decisions that have adversely impacted the community, and (b) can be used to support future operating or capital projects that will be identified in the strategic plan required under RCW 43.167.030.

(2) Formation of the community preservation and development authority is subject to legislative authorization by statute. The legislature must find that (a) the area within the proposal's geographic boundaries meets the definition of "impacted community" contained in RCW 43.167.003(4) and (b) those persons that have brought forth the proposal are members of the community as defined in RCW 43.167.003(1) and, if the authority were approved, would meet the definition of constituency contained in RCW 43.167.003(3). For proposals brought after January 1, 2020, the legislature must also find that the community has identified one or more stable revenue sources as required in subsection (1) of this section. The legislature may then act to autho-

alize the establishment of the community preservation and development authority in law.

(3) The affairs of a community preservation and development authority shall be managed by a board of directors, consisting of the following members:

- (a) Two members who own, operate, or represent businesses within the community;
- (b) Two members who reside in the community;
- (c) Two members who are involved in providing non-profit community or social services within the community;
- (d) Two members who are involved in the arts and entertainment within the community;
- (e) Two members with knowledge of the community's culture and history;
- (f) One member who is involved in a nonprofit or public planning organization that directly serves the impacted community; and
- (g) Two representatives of the local legislative authority or authorities, as ex officio members.

(4) No member of the board shall hold office for more than six years. Board positions shall be numbered one through nine [thirteen], and the terms staggered as follows:

- (a) Board members elected to positions one through five shall serve three-year terms, and if reelected, may serve no more than one additional three-year term.
- (b) Board members initially elected to positions six through thirteen shall serve a two-year term, and if reelected, may serve no more than one additional three-year term.
- (c) Board members elected to positions six through thirteen after the initially elected members shall serve three-year terms, and if reelected, may serve no more than one additional three-year term.

(5) With respect to an authority's initial board of directors: The state legislative delegation and those proposing formation of the authority shall jointly establish a committee to select the members of the initial board of directors once the authority has received legislative approval as established in subsection (2) of this section. For the purpose of identifying those persons who meet the criteria in subsection (3)(a) through (e) of this section, community shall mean the proposed geographic boundaries as set out in the proposal.

(6) With respect to subsequent elections of an authority's board of directors: A list of candidates shall be developed by the authority's existing board of directors and the election shall be held during the annual local town hall meeting as required in RCW 43.167.030. [2021 c 47 § 2; 2019 c 447 § 4; 2009 c 516 § 1; 2007 c 501 § 3.]

Findings—2019 c 447: See note following RCW 43.167.007.

43.167.020 Powers of authorities—Limitations. (1) A community preservation and development authority shall have the power to:

- (a) Accept gifts, grants, loans, or other aid from public or private entities;
- (b) Employ and appoint such agents, attorneys, officers, and employees as may be necessary to implement the purposes and duties of an authority;
- (c) Contract and enter into partnerships with individuals, associations, corporations, and local, state, and federal governments;
- (d) Buy, own, lease, and sell real and personal property;

- (e) Hold in trust, improve, and develop land;
- (f) Invest, deposit, and reinvest its funds;
- (g) Incur debt in furtherance of its mission; and
- (h) Lend its funds, property, credit, or services for corporate purposes.

(2) A community preservation and development authority has no power of eminent domain nor any power to levy taxes or special assessments.

(3) A community preservation and development authority that accepts public funds under subsection (1)(a) of this section:

(a) Is subject in all respects to Article VIII, section 5 or 7, as appropriate, of the state Constitution, and to RCW 42.17A.550; and

(b) May not use the funds to support or oppose a candidate, ballot proposition, political party, or political committee. [2011 c 60 § 40; 2009 c 516 § 2; 2007 c 501 § 4.]

Additional notes found at www.leg.wa.gov

43.167.030 Duties of authorities. A community preservation and development authority shall have the duty to:

(1) Establish specific geographic boundaries for the authority within its bylaws based on the general geographic boundaries established in the proposal submitted and approved by the legislature;

(2) Solicit input from members of its community and develop a strategic preservation and development plan to restore and promote the health, safety, and economic well-being of the impacted community and to restore and preserve its cultural and historical identity;

(3) Include within the strategic plan a prioritized list of projects identified and supported by the community, including capital or operating components;

(4) Establish funding mechanisms to support projects and programs identified in the strategic plan including but not limited to grants and loans;

(5) Use gifts, grants, loans, and other aid from public or private entities to carry out projects identified in the strategic plan including, but not limited to, those that: (a) Enhance public safety; (b) reduce community blight; and (c) provide ongoing mitigation of the adverse effects of multiple publicly funded projects on the impacted community; and

(6) Demonstrate ongoing accountability for its actions by:

(a) Reporting to the appropriate committees of the legislature, one year after formation and every biennium thereafter, on the authority's strategic plan, activities, accomplishments, and any recommendations for statutory changes;

(b) Reporting any changes in the authority's geographic boundaries to the appropriate committees of the legislature when the legislature next convenes in regular session;

(c) Convening a local town hall meeting with its constituency on an annual basis to: (i) Report its activities and accomplishments from the previous year; (ii) present and receive input from members of the impacted community regarding its proposed strategic plan and activities for the upcoming year; and (iii) hold board member elections as necessary; and

(d) Maintaining books and records as appropriate for the conduct of its affairs. [2009 c 516 § 3; 2007 c 501 § 5.]

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43.167.040 Community preservation and development authority account. The community preservation and development authority account is created in the state treasury. The account is composed of two subaccounts, one for moneys to be appropriated for operating purposes, and the other for moneys to be appropriated for capital purposes. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for projects under this chapter. [2007 c 501 § 7.]

43.167.050 Role of state and local government agencies. Prior to making siting, design, and construction decisions for future major public facilities, public works projects, or capital projects with significant public funding, state and local government agencies may:

(1) Communicate and consult with the community preservation and development authority and impacted community, including assessing the compatibility of the proposed project with the strategic plan adopted by the authority; and

(2) Make reasonable efforts to ensure that negative, cumulative effects of multiple projects upon the impacted community are minimized. [2007 c 501 § 8.]

43.167.060 Pioneer Square-International district community preservation and development authority. The legislature authorizes the establishment of the Pioneer Square-International district community preservation and development authority, which boundaries are those contained in the Pioneer Square-International district within the city of Seattle. [2007 c 501 § 6.]

43.167.070 Central district community preservation and development authority. (1) The legislature finds that the Central district is identified as the oldest surviving residential neighborhood in Seattle where, historically, residents who faced housing and economic discrimination elsewhere in the city could settle and raise families, resulting in a richly diverse multicultural community. The legislature also finds that the Central district is widely recognized as the historical center of the Seattle African American community which is reflected in the historic buildings, institutions, and culture of the neighborhood. The legislature further finds that the Central district has been adversely impacted by public works, capital projects with significant public funding, and other land use decisions which have contributed to dislocation, displacement, and the disintegration of an identifiable existing community and its historical and cultural character. In addition, the legislature finds that members of the community who meet the definition of constituency contained in RCW 43.167.003(3) have submitted a proposal to form a community preservation and development authority to preserve, restore, and enhance the unique, history, culture, and character of the Central district.

(2) The legislature authorizes the establishment of the Central district community preservation and development authority, which boundaries are those contained in the Central district within the city of Seattle, to preserve the unique character and history of the area pursuant to RCW 43.167.007. [2019 c 447 § 5.]

Chapter 43.168 RCW

RURAL WASHINGTON LOAN FUND

(Formerly: Washington state development loan fund committee)

Sections

43.168.010	Legislative findings and declaration.
43.168.020	Definitions.
43.168.040	Approval of applications for federal community development block grant funds for projects.
43.168.050	Application approval—Conditions and limitations.
43.168.055	Application priorities.
43.168.060	Local development organizations—Duties of department—Rules.
43.168.070	Processing of applications—Contents of applications.
43.168.090	Use of federal community development block grant funds.
43.168.100	Entitlement community grants—Conditions.
43.168.110	Rural Washington loan fund.
43.168.120	Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds.
43.168.130	Development of performance standards.
43.168.150	Minority and women-owned businesses—Application process—Joint loan guarantee program.

Public records: Chapter 42.56 RCW.

43.168.010 Legislative findings and declaration. The legislature finds that:

(1) The economic health and well-being of the state, particularly in areas of high unemployment, economic stagnation, and poverty, is of substantial public concern.

(2) The consequences of minimal economic activity and persistent unemployment and underemployment are serious threats to the safety, health, and welfare of residents of these areas, decreasing the value of private investments and jeopardizing the sources of public revenue.

(3) The economic and social interdependence of communities and the vitality of industrial and economic activity necessitates, and is in part dependent on preventing substantial dislocation of residents and rebuilding the diversification of the areas' economy.

(4) The ability to remedy problems in stagnant areas of the state is beyond the power and control of the regulatory process and influence of the state, and the ordinary operations of private enterprise without additional governmental assistance are insufficient to adequately remedy the problems of poverty and unemployment.

(5) The revitalization of depressed communities requires the stimulation of private investment, the development of new business ventures, the provision of capital to ventures sponsored by local organizations and capable of growth in the business markets, and assistance to viable, but under-financed, small businesses in order to create and preserve jobs that are sustainable in the local economy.

Therefore, the legislature declares there to be a substantial public purpose in providing capital to promote economic development and job creation in areas of economic stagnation, unemployment, and poverty. To accomplish this purpose, the legislature hereby creates the rural Washington loan fund and vests in the *department of community, trade, and economic development the authority to spend federal funds to stimulate the economy of distressed areas. [1999 c 164 § 501; 1985 c 164 § 1.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

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

(1) "Department" means the department of commerce.

(2) "Director" means the director of commerce.

(3) "Distressed area" means: (a) A rural county; (b) a county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (c) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (d) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; or (e) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Fund" means the rural Washington loan fund.

(5) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(6) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities.

(7) "Rural county" has the same meaning as provided in RCW 82.14.370. [2009 c 565 § 36; 2008 c 131 § 2; 2005 c 136 § 3; 1999 c 164 § 502; 1996 c 290 § 3; 1995 c 226 § 27; 1993 c 280 § 56; 1991 c 314 § 19; 1988 c 42 § 18; 1987 c 461 § 2; 1985 c 164 § 2.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

43.168.040 Approval of applications for federal community development block grant funds for projects. Subject to the restrictions contained in this chapter, the director is authorized to approve applications of local governments for federal community development block grant funds which the local governments would use to make loans to finance business projects within their jurisdictions. Applications approved by the director under this chapter shall conform to

applicable federal requirements. [2005 c 136 § 4; 1987 c 461 § 3; 1985 c 164 § 4.]

Additional notes found at www.leg.wa.gov

43.168.050 Application approval—Conditions and limitations. (1) The director may only approve an application providing a loan for a project which the director finds:

(a) Will result in the creation of employment opportunities, the maintenance of threatened employment, or development or expansion of business ownership by minorities and women;

(b) Will conform to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, the employment of disadvantaged workers, and development or expansion of business ownership by minorities and women, will primarily accrue to residents of the area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The director shall, subject to federal block grant criteria, give higher priority to economic development projects that contain provisions for child care.

(3) The director may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the director. The director may require an annual or other periodic audit of the project books.

(4) The director may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

(5) The director may approve an application which results in a loan or grant of up to one million dollars.

(6) The director shall fix the terms and rates pertaining to fund loans.

(7) Should there be more demand for loans than funds available for lending, the director shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the director shall also consider the employment which would be saved by its loan and the benefit relative to the community, not just the total number of new jobs or jobs saved.

(8) To the extent permitted under federal law the director shall require applicants to provide for the transfer of all payments of principal and interest on loans to the fund created under this chapter. Under circumstances where the federal law does not permit the director to require such transfer, the director shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

(9) The director shall not approve any application to finance or help finance a shopping mall.

(10) For loans not made to minority and women-owned businesses, the director shall make at least eighty percent of the appropriated funds available to projects located in distressed areas, and may make up to twenty percent available to

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projects located in areas not designated as distressed. For loans not made to minority and women-owned businesses, the director shall not make funds available to projects located in areas not designated as distressed if the fund's net worth is less than seven million one hundred thousand dollars.

(11) If an objection is raised to a project on the basis of unfair business competition, the director shall evaluate the potential impact of a project on similar businesses located in the local market area. A grant may be denied by the director if a project is not likely to result in a net increase in employment within a local market area.

(12) For loans to minority and women-owned businesses who do not meet the credit criteria, the director may consider nontraditional credit standards to offset past discrimination that has precluded full participation of minority or women-owned businesses in the economy. For applicants with high potential who do not meet the credit criteria, the director shall consider developing alternative borrowing methods. For applicants denied loans due to credit problems, the department shall provide financial counseling within available resources and provide referrals to credit rehabilitation services. In circumstances of competing applications, priority shall be given to members of eligible groups which previously have been least served by this fund. [2005 c 136 § 5; 1993 c 512 § 12; 1990 1st ex.s. c 17 § 74; 1989 c 430 § 9; 1987 c 461 § 4; 1986 c 204 § 2; 1985 c 164 § 5.]

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Additional notes found at www.leg.wa.gov

43.168.055 Application priorities. In addition to the requirements of RCW 43.168.050, the department shall, subject to applicable federal funding criteria, give priority to applications that capitalize or recapitalize an existing or new local revolving fund based on criteria established by the department. [1999 c 164 § 503.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.168.060 Local development organizations—Duties of department—Rules. The department is encouraged to work with local development organizations to promote applications for loans by the fund. The department shall also provide assistance to local development organizations and local governments to identify viable projects for consideration. The department shall adopt such rules and regulations as are appropriate for implementation of this chapter. [2005 c 136 § 6; 1985 c 164 § 6.]

Additional notes found at www.leg.wa.gov

43.168.070 Processing of applications—Contents of applications. The director may receive and approve applications on a monthly basis but shall receive and approve applications on at least a quarterly basis for each fiscal year. The director shall make every effort to simplify the loan process for applicants. Department staff shall process and assist in the preparation of applications. Each application shall show in detail the nature of the project, the types and numbers of jobs to be created, wages to be paid to new employees, and meth-

ods to hire unemployed persons from the area. Each application shall contain a credit analysis of the business to receive the loan. The director may respond on short notice to applications of a serious or immediate nature. [2005 c 136 § 7; 1993 c 512 § 14; 1987 c 461 § 5; 1985 c 164 § 7.]

Additional notes found at www.leg.wa.gov

43.168.090 Use of federal community development block grant funds. The department shall use for the fund an amount of federal community development block grant funds equal to the amount of state funds transferred or appropriated to the department for purposes of supplementing the department's block grant funds. [2005 c 136 § 8; 1985 c 164 § 9.]

Additional notes found at www.leg.wa.gov

43.168.100 Entitlement community grants—Conditions. The director may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made on the condition that the entitlement community provide the director with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements; and (3) spend at least the same amount of the grant for loans to businesses from the federal funds received by the entitlement community. [2005 c 136 § 9; 1993 c 512 § 15; 1986 c 204 § 1; 1985 c 164 § 10.]

Additional notes found at www.leg.wa.gov

43.168.110 Rural Washington loan fund. There is established the rural Washington loan fund which shall be an account in the state treasury. All loan payments of principal and interest which are transferred under RCW 43.168.050 shall be deposited into the account. Moneys in the account may be spent only after legislative appropriation for loans under this chapter. Any expenditures of these moneys shall conform to federal law. [1999 c 164 § 504; 1992 c 235 § 11; 1985 c 164 § 11.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.168.120 Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds. (1) The department shall develop guidelines for rural Washington loan funds to be used to fund existing economic development revolving loan funds. Consideration shall be given to the selection process for grantees, loan quality criteria, legal and regulatory issues, and ways to minimize duplication between rural Washington loan funds and local economic development revolving loan funds.

(2) If it appears that all of the funds appropriated to the fund for a biennium will not be fully granted to local governments within that biennium, the department may make available up to twenty percent of the eighty percent of the funds available to projects in distressed areas under RCW 43.168.050(10) for grants to local governments to assist

existing economic development revolving loan funds in distressed areas. The grants to local governments shall be utilized to make loans to businesses that meet the specifications for loans under this chapter. The local governments shall, to the extent permitted under federal law, agree to convey to the fund the principal and interest payments from existing loans that the local governments have made through their revolving loan funds. Under circumstances where the federal law does not permit the department to require such transfer, the department shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer. [1999 c 164 § 505; 1987 c 461 § 6.]

Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164: See notes following RCW 43.160.010.

43.168.130 Development of performance standards. The director shall develop performance standards for judging the effectiveness of the program. Such standards shall include, to the extent possible, examining the effectiveness of grants in regard to:

- (1) Job creation for individuals of low and moderate income;
- (2) Retention of existing employment;
- (3) The creation of new employment opportunities;
- (4) The diversification of the economic base of local communities;
- (5) The establishment of employee cooperatives;
- (6) The provision of assistance in cases of employee buy-outs of firms to prevent the loss of existing employment;
- (7) The degree of risk assumed by the fund, with emphasis on loans which did not receive financing from commercial lenders, but which are considered financially sound. [2005 c 136 § 10; 1998 c 245 § 52; 1987 c 461 § 7.]

Additional notes found at www.leg.wa.gov

43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program. Subject to the restrictions contained in this chapter, the director is authorized to approve applications of minority and women-owned businesses for loans or loan guarantees from the fund. Applications approved by the director under this chapter shall conform to applicable federal requirements. The director shall prioritize available funds for loan guarantees rather than loans when possible. The director may enter into agreements with other public or private lending institutions to develop a joint loan guarantee program for minority and women-owned businesses. If such a program is developed, the director may provide funds, in conjunction with the other organizations, to operate the program. This section does not preclude the director from making individual loan guarantees.

To the maximum extent practicable, the funds available under this section shall be made available on an equal basis to minority and women-owned businesses. The director shall submit to the appropriate committees of the senate and house of representatives quarterly reports that detail the number of loans approved and the characteristics of the recipients by ethnic and gender groups. [2005 c 136 § 11; 1993 c 512 § 13.]

Additional notes found at www.leg.wa.gov

Chapter 43.176 RCW
SMALL BUSINESS INCUBATOR PROGRAM

Sections

43.176.010	Policy.
43.176.020	Definitions.
43.176.030	Small business incubator program—Grants.
43.176.900	Short title—2004 c 237.
43.176.901	Services dependent on legislative funding.

43.176.010 Policy. It is hereby declared to be the policy of the state of Washington to assist in the creation and expansion of innovative small commercial enterprises that produce marketable goods and services through the employment of Washington residents, the use of technology, and the application of best management practices. This policy is to be implemented through the use of small business incubators. [2004 c 237 § 1.]

43.176.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Business incubator" means a facility that offers:

- (a) Space for start-up and expanding firms;
 - (b) The shared use of equipment and work areas;
 - (c) Daily management support services essential to high quality commercial operations; and
 - (d) Technical assistance.
- (2) "Qualified small business incubator" means an incubator that is:

(a)(i) Designated as a nonprofit organization under section 501(c)(3) of the internal revenue code, or (ii) consists of a partnership between a designated nonprofit organization under section 501(c)(3) of the internal revenue code and a government or quasi-government agency;

(b) Focused on developing small businesses in an economically distressed or disadvantaged area; and

(c) Structured around a sound business plan. [2004 c 237 § 2.]

43.176.030 Small business incubator program—Grants. (1) The small business incubator program is created in the *department of community, trade, and economic development to provide start-up and operating assistance to qualified small business incubators.

(2) The department shall award grants to qualified small business incubator organizations for:

(a) Construction and equipment costs, up to a maximum of three million dollars per recipient; and

(b) Provision of technical assistance to small businesses, up to a maximum of one hundred twenty-five thousand dollars per year per recipient.

(3) The department shall:

(a) Require a grant recipient to show that it has the resources to complete the project in a timely manner and the state grant is not the sole source of funds;

(b) Develop, in conjunction with the Washington association of small business incubators, criteria for receipt of grant funds, including criteria related to organizational capacity, community need, and the availability of other economic development resources;

(c) Accept and receive grants, gifts, and pledges of funds for the support of the small business incubator program,

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which shall be deposited in the small business incubator account established in **RCW 43.176.040; and

(d) Integrate the promotion of small business incubators as economic development tools in its strategic plan. [2004 c 237 § 3.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

** (2) RCW 43.176.040 was repealed by 2012 c 198 § 26.

43.176.900 Short title—2004 c 237. This act may be known as the Washington small business incubator and entrepreneurship assistance act of 2004. [2004 c 237 § 5.]

43.176.901 Services dependent on legislative funding. The *department of community, trade, and economic development shall have no duty to provide services related to the small business incubator and entrepreneurship assistance act of 2004 unless and until the small business incubator program and related administrative expenses are funded by the legislature. [2004 c 237 § 6.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Chapter 43.180 RCW
HOUSING FINANCE COMMISSION

Sections

43.180.010	Declaration of public policies—Purpose.
43.180.020	Definitions.
43.180.030	Bonds not debt of state.
43.180.040	Commission created.
43.180.050	Housing financing powers—Annual audit.
43.180.060	No power of eminent domain or taxation.
43.180.070	Housing finance plan.
43.180.080	General powers.
43.180.090	Selection of bond counsel—Written policies to be adopted.
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43.180.110	Review of initial policies adopted under RCW 43.180.090 and 43.180.100—Adoption—Change.
43.180.120	Rules for fair allocation of bond proceeds for nonrental single-family housing.
43.180.130	Protection of bondholders—Mortgage insurance.
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43.180.150	Bond issues—Terms—Issuance—Purchase, etc.
43.180.160	Debt limitation—Washington works housing program.
43.180.170	Bond issues—Disposition of proceeds—Special fund.
43.180.180	Bond issues—Disposition of revenues—Special trust fund.
43.180.190	Legal investments.
43.180.200	Internal revenue code.
43.180.220	Housing finance program—Mortgage financing—Investments—Flexible loan underwriting guidelines.
43.180.230	Housing finance program—Program elements.
43.180.240	Housing finance program—Report to legislature annually—Implementation.
43.180.245	Condominium conversion tenant-to-homeowner program.
43.180.250	Veteran homeownership downpayment assistance program—Rules.
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NONPROFIT CORPORATION FACILITIES	
43.180.300	Definitions.
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- 43.180.901 Liberal construction.
 43.180.902 Captions not part of law.
 43.180.904 Effective dates—1983 c 161.
 43.180.905 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

43.180.010 Declaration of public policies—Purpose.

It is declared to be the public policy of the state and a recognized governmental function to assist in making affordable and decent housing available throughout the state and by so doing to contribute to the general welfare. Decent housing for the people of our state is a most important public concern. Interest rates and construction costs have made it impossible for many Washington citizens to purchase their own homes. Older people, disabled persons, and low and moderate-income families often cannot afford to rent decent housing. There exists throughout the state a serious shortage of safe, sanitary and energy efficient housing available at prices within the financial means of our citizens. General economic development within the state is also impeded by a lack of affordable housing. The state's economy, which is dependent on the timber, wood products, and construction industries, has been damaged by inadequate investment in housing construction and rehabilitation. The result has been high unemployment and economic hardship affecting the prosperity of all the people of the state, particularly those in the wood products industry.

It is the purpose of this chapter to establish a state housing finance commission to act as a financial conduit which, without using public funds or lending the credit of the state or local government, can issue nonrecourse revenue bonds and participate in federal, state, and local housing programs and thereby make additional funds available at affordable rates to help provide housing throughout the state. It is also a primary purpose of this chapter to encourage the use of Washington state forest products in residential construction. This chapter is enacted to accomplish these and related purposes and shall be liberally construed to carry out its purposes and objectives. [1983 c 161 § 1.]

43.180.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bonds" means the bonds, notes, or other evidences of indebtedness of the commission, the interest paid on which may or may not qualify for tax exemption.

(2) "Certifying authority" means: (a) For improvements involving solar electric systems, the Washington climate and rural energy development center at Washington State University, established under RCW 28B.30.642; or (b) for all other energy efficiency and renewable energy improvements, any utility company or other institution qualified to assess and certify the feasibility and benefit of energy efficiency and renewable energy improvements in a manner that is efficient and minimizes the amount of time or cost.

(3) "Code" means the federal internal revenue code of 1954, as now or hereafter amended, and the regulations and rulings promulgated thereunder.

(4) "Commission" means the Washington state housing finance commission or any board, body, commission, department, or officer succeeding to the principal functions thereof

or to whom the powers conferred upon the commission shall be given by law.

(5) "Costs of housing" means all costs related to the development, design, acquisition, construction, reconstruction, leasing, rehabilitation, and other improvements of housing, as determined by the commission.

(6) "Eligible applicant" means, with respect to the sustainable energy trust program, an owner of a residential, agricultural, commercial, state, or municipal property.

(7) "Eligible person" means a person or family eligible in accordance with standards promulgated by the commission. Such persons shall include those persons whose income is insufficient to obtain at a reasonable cost, without financial assistance, decent, safe, and sanitary housing in the area in which the person or family resides, and may include such other persons whom the commission determines to be eligible.

(8) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption in residential, agricultural, commercial, state, or municipal properties. The term includes, but is not limited to: Insulation; storm windows and doors; automatic energy control systems; heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants; caulking and weather stripping; energy recovery systems; geothermal heat pumps; and day lighting systems.

(9) "Housing" means specific new, existing, or improved residential dwellings within this state or dwellings to be constructed within this state. The term includes land, buildings, and manufactured dwellings, and improvements, furnishings, and equipment, and such other nonhousing facilities, furnishings, equipment, and costs as may be incidental or appurtenant thereto if in the judgment of the commission the facilities, furnishings, equipment and costs are an integral part of the project. Housing may consist of single-family or multi-family dwellings in one or more structures located on contiguous or noncontiguous parcels or any combination thereof. Improvements may include such equipment and materials as are appropriate to accomplish energy efficiency within a dwelling. The term also includes a dwelling constructed by a person who occupies and owns the dwelling, and nursing homes licensed under chapter 18.51 RCW.

(10) "Mortgage" means a mortgage, mortgage deed, deed of trust, security agreement, or other instrument securing a mortgage loan and constituting a lien on or security interest in housing. The property may be held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term of repayment of the mortgage loan secured by the mortgage. The property may also be housing which is evidenced by an interest in a cooperative association or corporation if ownership of the interest entitles the owner of the interest to occupancy of a dwelling owned by the association or corporation.

(11) "Mortgage lender" means any of the following entities which customarily provide service or otherwise aid in the financing of housing and which are approved as a mortgage lender by the commission: A bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or any

other financial institution, governmental agency, municipal corporation, or any holding company for any of the entities specified in this subsection.

(12) "Mortgage loan" means an interest-bearing loan or a participation therein, made to a borrower, for the purpose of financing the costs of housing, evidenced by a promissory note, and which may or may not be secured (a) under a mortgage agreement, (b) under any other security agreement, regardless of whether the collateral is personal or real property, or (c) by insurance or a loan guarantee of a third party. However, an unsecured loan shall not be considered a mortgage loan under this definition unless the amount of the loan is under two thousand five hundred dollars.

(13) "Qualified improvement" means an energy efficiency improvement which has been approved by a certifying authority or a net metering system as defined under RCW 80.60.010. [2009 c 65 § 2; 1990 c 167 § 1; 1983 c 161 § 2.]

Intent—Finding—2009 c 65: "The legislature intends to promote the development of renewable energy technologies and the application of energy efficiency measures by authorizing the issuance of revenue bonds to finance renewable energy and energy efficiency improvement costs. The legislature finds that by providing access to low-cost capital to finance renewable energy and energy efficiency projects, a key barrier is eliminated." [2009 c 65 § 1.]

43.180.030 Bonds not debt of state. Bonds issued under this chapter shall be issued in the name of the commission. The bonds shall not be obligations of the state of Washington and shall be obligations only of the commission payable from the special fund or funds created by the commission for their payment. Such funds shall not be or constitute public moneys or funds of the state of Washington but at all times shall be kept segregated and set apart from other funds.

Bonds issued under this chapter shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds, shall be a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the commission as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds.

Contracts entered into by the commission shall be entered into in the name of the commission and not in the name of the state of Washington. The obligations of the commission under the contracts shall be obligations only of the commission and are not in any way obligations of the state of Washington. [1983 c 161 § 3.]

43.180.040 Commission created. (1) There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington state housing finance commission. The commission is an instrumentality of the state exercising essential government functions and, for purposes of the code, acts as a constituted authority on behalf of the state when it issues bonds pursuant to this chapter. The commission is a "public body" within the meaning of RCW 39.53.010.

(2) The commission shall consist of the following voting members:

(a) The state treasurer, ex officio;

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(b) The *director of community, trade, and economic development, ex officio;

(c) An elected local government official, ex officio, with experience in local housing programs, who shall be appointed by the governor with the consent of the senate;

(d) A representative of housing consumer interests, appointed by the governor with the consent of the senate;

(e) A representative of labor interests, appointed by the governor, with the consent of the senate, after consultation with representatives of organized labor;

(f) A representative of low-income persons, appointed by the governor with the consent of the senate;

(g) Five members of the public appointed by the governor, with the consent of the senate, on the basis of geographic distribution and their expertise in housing, real estate, finance, energy efficiency, or construction, one of whom shall be appointed by the governor as chair of the commission and who shall serve on the commission and as chair of the commission at the pleasure of the governor.

The term of the persons appointed by the governor, other than the chair, shall be four years from the date of their appointment, except that the terms of three of the initial appointees shall be for two years from the date of their appointment. The governor shall designate the appointees who will serve the two-year terms. An appointee may be removed by the governor for cause pursuant to RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy in an appointed position by appointment for the remainder of the unexpired term. If the **department of community development is abolished, the resulting vacancy shall be filled by a state official who shall be appointed to the commission by the governor. If this official occupies an office or position for which senate confirmation is not required, then his or her appointment to the commission shall be subject to the consent of the senate. The members of the commission shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the commission, for expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority of the commission constitutes a quorum. Designees shall be appointed in such manner and shall exercise such powers as are specified by the rules of the commission.

(3) The commission may adopt an official seal and may select from its membership a vice chair, a secretary, and a treasurer. The commission shall establish rules concerning its exercise of the powers authorized by this chapter. The rules shall be adopted in conformance with chapter 34.05 RCW. [1995 c 399 § 98; 1985 c 6 § 14; 1984 c 287 § 90; 1983 c 161 § 4.]

Reviser's note: *(1) The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

***(2) Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994. The department of community, trade, and economic development was renamed the department of commerce by 2009 c 565.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.180.050 Housing financing powers—Annual audit. (1) In addition to other powers and duties prescribed in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

- (a) Issue bonds in accordance with this chapter;
- (b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;
- (c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans;
- (d) Make loans for down payment assistance to home buyers in conjunction with other commission programs; and
- (e) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

- (a) Income;
- (b) Family size;
- (c) Cost, condition, and energy efficiency of available residential housing;
- (d) Availability of decent, safe, and sanitary housing;
- (e) Age or infirmity; and
- (f) Applicable federal, state, and local requirements.

The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings. [2013 c 13 § 1; 1986 c 264 § 1; 1983 c 161 § 5.]

Effective date—2013 c 13: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 17, 2013]." [2013 c 13 § 2.]

43.180.060 No power of eminent domain or taxation. The commission does not have the power of eminent domain and the commission does not have the power to levy any taxes of any kind. [1983 c 161 § 6.]

43.180.070 Housing finance plan. The commission shall adopt a general plan of housing finance objectives to be implemented by the commission during the period of the plan. The commission may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the commission shall consider and set objectives for:

- (1) The use of funds for single-family and multifamily housing;
- (2) The use of funds for new construction, rehabilitation, including refinancing of existing debt, and home purchases;
- (3) The housing needs of low-income and moderate-income persons and families, and of elderly or persons with disabilities;

(4) The use of funds in coordination with federal, state, and local housing programs for low-income persons;

(5) The use of funds in urban, rural, suburban, and special areas of the state;

(6) The use of financing assistance to stabilize and upgrade declining urban neighborhoods;

(7) The use of financing assistance for economically depressed areas, areas of minority concentration, reservations, and in mortgage-deficient areas;

(8) The geographical distribution of bond proceeds so that the benefits of the housing programs provided under this chapter will be available to address demand on a fair basis throughout the state;

(9) The use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

The plan shall include an estimate of the amount of bonds the commission will issue during the term of the plan and how bond proceeds will be expended.

The plan shall be adopted by resolution of the commission following at least one public hearing thereon, notice of which shall be made by mailing to the clerk of the governing body of each county and by publication in the Washington State Register no more than forty and no less than twenty days prior to the hearing. A draft of the plan shall be made available not less than thirty days prior to any such public hearing. At least every two years, the commission shall report to the legislature regarding implementation of the plan.

The commission may periodically update the plan.

The commission shall adopt rules designed to result in the use of bond proceeds in a manner consistent with the plan. The commission may periodically update its rules.

This section is designed to deal only with the use of bond proceeds and nothing in this section shall be construed as a limitation on the commission's authority to issue bonds. [2020 c 274 § 25. Prior: 1999 c 372 § 11; 1999 c 131 § 1; 1983 c 161 § 7.]

43.180.080 General powers. In addition to other powers and duties specified in this chapter, the commission may:

- (1) Establish in resolutions relating to any issuance of bonds, or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of mortgages and mortgage loans or the making of loans to mortgage lenders as the commission deems necessary or desirable, including but not limited to: (a) The time within which mortgage lenders must make commitments and disbursements for mortgages or mortgage loans; (b) the location and other characteristics of single-family housing or multifamily housing to be financed by mortgages and mortgage loans; (c) the terms and conditions of mortgages and mortgage loans to be acquired; (d) the amounts and types of insurance coverage required on mortgages, mortgage loans, and bonds; (e) the representations and warranties of mortgage lenders confirming compliance with such standards and requirements; (f) restrictions as to interest rate and other terms of mortgages or mortgage loans or the return realized therefrom by mortgage lenders; (g) the type and amount of collateral security to be provided to assure repayment of any loans from the commission and to assure repayment of bonds; and (h) any other matters related to the purchase of mortgages or mortgage loans or the making of loans to lend-

ing institutions as shall be deemed relevant by the commission;

(2) Sue and be sued in its own name;

(3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its purposes or powers, including but not limited to contracts or agreements for the origination, servicing, and administration of mortgages or mortgage loans, and the borrowing of money;

(4) Procure such insurance, including but not limited to insurance: (a) Against any loss in connection with its property and other assets, including but not limited to mortgages or mortgage loans, in such amounts and from such insurers as the commission deems desirable, and (b) to indemnify members of the commission for acts done in the course of their duties;

(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Fix, revise, and collect fees and charges in connection with the investigation and financing of housing or in connection with assignments, contracts, purchases of mortgages or mortgage loans, or any other actions permitted under this chapter or by the commission; and receive grants and contributions;

(7) Make such expenditures as are appropriate for paying the administrative costs of the commission and for carrying out the provisions of this chapter. These expenditures may be made only from funds consisting of the commission's receipts from fees and charges, grants and contributions, the proceeds of bonds issued by the commission, and other revenues; these expenditures shall not be made from funds of the state of Washington;

(8) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(9) Conduct such investigations and feasibility studies as it deems appropriate;

(10) Proceed with foreclosure actions or accept deeds in lieu of foreclosure together with the assignments of leases and rentals incidental thereto. Any properties acquired by the commission through such actions shall be sold as soon as practicable through persons licensed under chapter 18.85 RCW or at public auction, or by transfer to a public agency. In preparation for the disposition of the properties, the commission may own, lease, clear, construct, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, or encumber the properties;

(11) Take assignments of leases and rentals;

(12) Subject to any provisions of the commission's contracts with the holders of obligations of the commission, consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind;

(13) Subject to provisions of the commission's contracts with the holders of bonds, permit the reduction of rental or carrying charges to persons unable to pay the regular rent or schedule of charges if, by reason of other income of the commission or by reason of payment by any department, agency, or instrumentality of the United States or of this state, the

reduction can be made without jeopardizing the economic stability of the housing being financed;

(14) Sell, at public or private sale, with or without public bidding, any mortgage, mortgage loan, or other instrument or asset held by the commission;

(15) Employ, contract with, or engage engineers, architects, attorneys, financial advisors, bond underwriters, mortgage lenders, mortgage administrators, housing construction or financing experts, other technical or professional assistants, and such other personnel as are necessary. The commission may delegate to the appropriate persons the power to execute legal instruments on its behalf;

(16) Receive contributions or grants from any source unless otherwise prohibited;

(17) Impose covenants running with the land in order to satisfy and enforce the requirements of applicable state and federal law and commission policy with respect to housing or other facilities financed by the commission or assisted by federal, state, or local programs administered by the commission, by executing and recording regulatory agreements or other covenants between the commission and the person or entity to be bound. These regulatory agreements and covenants shall run with the land and be enforceable by the commission or its successors or assigns against the person or entity making the regulatory agreement or covenants or its successors or assigns, even though there may be no privity of estate or privity of contract between the commission or its successors or assigns and the person or entity against whom enforcement is sought. The term of any such covenant shall be set forth in the recorded agreement containing the covenant. This subsection shall apply to regulatory agreements and covenants previously entered into by the commission as well as regulatory agreements and covenants entered into by the commission on or after July 27, 1997;

(18) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(19) Exercise any other power reasonably required to implement the purposes of this chapter.

From February 15, 2010, through June 30, 2011, neither the commission nor its designees may grant any monetary performance-based awards or incentives to any employee. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW. [2010 c 2 § 5; 1997 c 163 § 1; 1983 c 161 § 8.]

Findings—Effective date—2010 c 2: See notes following RCW 41.06.070.

43.180.090 Selection of bond counsel—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of bond counsel. The policies shall provide for the creation and maintenance of a roster of attorneys whom the commission believes possess the requisite special expertise and professional standing to provide bond counsel opinions which would be accepted by the underwriters, bondholders, and other members of the financial community, and which would be in furtherance of the public interest in obtaining the lowest possible interest rates on the bonds issued by the commission. Any attorney may apply to have his or her name placed on the roster, but may not be placed on the roster unless the attorney demonstrates

to the commission's satisfaction that the attorney would issue the kind of opinions required by this section.

(2) Prior to selecting an attorney or attorneys to provide bond counsel services, the commission shall provide all attorneys on the roster with a notice of its intentions to select bond counsel and shall invite each of them to submit to the commission his or her fee schedule for providing bond counsel services. The commission shall have wide discretion in selecting the attorney or attorneys it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider all submitted fee schedules and the public interest in achieving both savings in bond counsel fees and issuance of bonds on terms most favorable to the commission. At least once every two calendar years, the commission shall select anew an attorney or attorneys to serve as bond counsel. However, the commission may retain an attorney for longer than two years when necessary to complete work on a particular bond issue. An attorney previously retained may be selected again but only after the commission has provided other attorneys on the roster with an opportunity to be selected and has made the fee schedule review required under this subsection. In addition to or as an alternative to retaining counsel for a period of time, the commission may appoint an attorney to serve as counsel in respect to only a particular bond issue. [1983 c 161 § 9.]

43.180.100 Selection of underwriters—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of underwriters. The policies shall provide for the creation of a roster of underwriters whom the commission believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the commission's bonds at the lowest possible costs. Any underwriter may apply to have its name placed on the roster, but may not be placed on the roster unless it demonstrates to the commission's satisfaction that it meets the requirements of this section.

(2) Whenever the commission decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite each of them to submit to the commission an itemization of its fees and other charges for providing underwriting services on the issue. The itemization shall be by categories designed by the commission. The commission shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider the underwriter's fees and other charges and the public interest in achieving both savings in the total costs of underwriting services and issuance of bonds on terms most favorable to the commission. [1983 c 161 § 10.]

43.180.110 Review of initial policies adopted under RCW 43.180.090 and 43.180.100—Adoption—Change. The commission shall submit the initial policies adopted under RCW 43.180.090 and 43.180.100 to the chief clerk of the house and the secretary of the senate for transmittal to and review by the appropriate standing committees and the joint

administrative rules review committee. By January 1, 1984 the commission shall have adopted policies in the form of rules and regulations under chapter 34.05 RCW. Such rules and regulations may only be changed or revised in accordance with chapter 34.05 RCW. [1983 c 161 § 11.]

43.180.120 Rules for fair allocation of bond proceeds for nonrental single-family housing. The legislature recognizes that the demand for mortgage loans for nonrental single-family housing will probably greatly exceed the supply of bond proceeds available to satisfy the demand. Therefore, the commission shall adopt rules providing procedures to assure that the bond proceeds available for that kind of housing shall be made available to qualified mortgagors in a fair and equitable manner. [1983 c 161 § 12.]

43.180.130 Protection of bondholders—Mortgage insurance. The commission is encouraged to adopt policies which will assure that bondholders will be protected against the failure to make mortgage payments financed under this chapter. Such policies may require, among other things, mortgage insurance. [1983 c 161 § 13.]

43.180.140 Rules for energy efficiency. The commission shall adopt rules providing for financing assistance to implement cost-effective energy efficiency improvements. [1983 c 161 § 14.]

43.180.150 Bond issues—Terms—Issuance—Purchase, etc. (1) The commission's bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be payable at such time or times, and be sold in such manner and at such price or prices, as the commission determines. The bonds shall be executed by the chair, by either its duly elected secretary or its treasurer, and by the trustee or paying agent if the commission determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature.

(2) The bonds of the commission shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the commission, including, but not limited to, pledges of the commission's assets, setting aside of reserves, limitations on additional forms of indebtedness, and the mortgaging of all or any part of the commission's real or personal property, then owned or thereafter acquired, and other provisions the commission finds are necessary or desirable for the security of bond holders.

(3) Any security interest created in the unexpended bond proceeds and in the special funds created by the commission shall be immediately valid and binding against such moneys and any securities in which such moneys may be invested without commission or trustee possession thereof, and the security interest shall be prior to any party having any competing claim in such moneys or securities, without filing or recording pursuant to *chapter 62A.9 RCW and regardless of whether the party has notice of the security interest.

(4) When issuing bonds, the commission may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The commission may refund or advance refund any bond of the commission in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds.

(5) The chair of the state finance committee or the chair's designee shall be notified in advance of the issuance of bonds by the commission in order to promote the orderly offering of obligations in the financial markets.

(6) The members of the commission and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The commission may, out of any fund available therefor, purchase its bonds in the open market. [1983 c 161 § 15.]

***Reviser's note:** Chapter 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see chapter 62A.9A RCW.

43.180.160 Debt limitation—Washington works housing program. (1) The total amount of outstanding indebtedness of the commission may not exceed \$14,000,000,000 at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise.

(2)(a) The Washington works housing program is created to increase opportunities for nonprofit organizations and public agencies to purchase, acquire, build, and own real property to be used for affordable housing for low and moderate-income households. The Washington works housing program is intended to provide access to new funding mechanisms and build long-term community equity by increasing the stock of permanently affordable housing owned by nonprofit organizations and public agencies.

(b) The Washington works housing program is intended to provide these opportunities for public agencies and nonprofit organizations, including those materially participating as a managing member or general partner of a partnership, limited liability company, or equivalent organization, through the issuance of tax exempt or taxable revenue bonds issued by the commission in conjunction with a subsidy necessary to make bond issues to finance affordable housing properties financially feasible. The program is intended to provide financing for affordable housing that will meet the income and rent restrictions in (c) and (d) of this subsection during the period of initial bond indebtedness and thereafter.

(c) During the period of initial bond indebtedness under the program, the owner of the property must meet one of the following requirements: A minimum of twenty percent of the units will be occupied by households earning less than fifty percent of area median income and an additional thirty-one percent of the units will be occupied by persons earning less

than eighty percent of area median income; or forty percent of the units will be occupied by households earning less than sixty percent of area median income and an additional eleven percent of the units will be occupied by households earning less than eighty percent of area median income.

(d) After the initial bond indebtedness is retired, the rents charged for units in the project will be adjusted to be sufficient to pay reasonable operation and maintenance expenses, including necessary capital needs, and to make reasonable deposits into a reserve account with the intent of providing affordable housing to very low or low-income households for the remaining useful life of the property. The reasonableness of the rent levels must be periodically approved by the commission based on information provided by the owner of the property about income, expenses, and necessary reserve levels. The determination of the commission regarding the reasonableness of the rent levels will be final.

(e) The commission will enter into a recorded regulatory agreement with the borrower at the time of the issuance of bonds under the program for the purpose of ensuring that the property will meet the income and rent restrictions established in this section. The commission may charge such compliance fees as necessary to ensure enforcement of the income and rent restrictions during the useful life of the property.

(3) One billion dollars of the outstanding indebtedness of the commission is for the primary purpose of implementing the Washington works housing program.

(4) If no subsidies are available to make the program in subsection (2) of this section feasible, then the commission may pass a resolution stating these facts and authorize the use of a portion of the one billion dollars of indebtedness intended for the program to support its other bond programs until such time as the one billion dollars is exhausted or subsidies are available to make the program feasible. [2022 c 70 § 1; 2018 c 78 § 1; 2010 1st sp.s. c 6 § 2; 2009 c 291 § 1; 2008 c 111 § 1; 2006 c 262 § 1; 1999 c 131 § 2; 1996 c 310 § 2; 1986 c 264 § 2; 1983 c 161 § 16.]

Additional notes found at www.leg.wa.gov

43.180.170 Bond issues—Disposition of proceeds—Special fund. Proceeds from the sale of all bonds issued under this chapter received by the commission shall be deposited forthwith by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, in a special fund or funds established for the particular purposes for which the bonds were issued and sold, which money shall not be funds of the state of Washington. Such fund or funds shall at all times be segregated and set apart from all other funds and held in trust for the purposes for which such bonds were issued as determined by the commission. Money other than bond sale proceeds received by the commission for these same purposes, such as private contributions or grants from the federal government, may be deposited in such fund or funds. Proceeds received from the sale of the bonds may also be used to defray the expenses of the commission in connection with and incidental to the issuance and sale of bonds, as well as expenses for studies, surveys, estimates, plans, inspections, and examinations of or incidental to the purposes for which the bonds were issued, and other costs advanced

therefor by third parties or by the commission. In lieu of the commission receiving and handling these moneys in the manner outlined in this section, the commission may appoint trustees, depositories, paying agents, and other financial institutions within or without the state to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. [1983 c 161 § 17.]

43.180.180 Bond issues—Disposition of revenues—Special trust fund. All revenues received by the commission including funds received from contributions or grants or in any other form to pay principal of and interest on bonds or for other bond requirements such as reserves shall be deposited by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, to the credit of a special trust fund or funds. The commission may establish a bond fund or funds, and a reserve, sinking fund and other accounts therein, for payment of principal and interest and for other special requirements of the bonds as determined by the commission. In lieu of the commission receiving and handling these moneys as outlined in this section, the commission may appoint trustees, depositories, paying agents, and other financial institutions to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. Such revenues and funds, whether received and held by the commission or by others on its behalf, shall not be or constitute public funds of the state of Washington but at all times shall be kept segregated and apart from all other funds. [1983 c 161 § 18.]

43.180.190 Legal investments. Bonds issued under this chapter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivisions of the state for any purpose for which the deposit of bonds and other obligations of the state are now or may hereafter be authorized by law. [1983 c 161 § 19.]

43.180.200 Internal revenue code. For purposes of the code:

(1) The legislature reserves the right at any time to alter or change the structure, organization, programs, or activities of the commission and to terminate the commission, so long as the action does not impair any outstanding contracts entered into by the commission;

(2) Any net earnings of the commission beyond that necessary to retire its bonds and to carry out the purposes of this chapter shall not inure to the benefit of any person other than the state;

(3) Upon dissolution of the commission, title to all of its remaining property shall vest in the state;

(4) The commission constitutes the only housing finance agency of the state of Washington; and

(5) In order to take advantage of the maximum amount of tax exempt bonds for housing financing available pursuant to the code, any state ceiling with respect to housing shall be allocated in accordance with the following formula:

(a) Eighty percent of the state ceiling shall be allocated to the commission and twenty percent shall be allocated to the other issuing authorities in the state.

(b) The allocation to the issuing authorities other than the commission shall be distributed to such issuing authorities in amounts as determined following public notice by the *department of community, trade, and economic development pursuant to rules promulgated by it. The distribution shall be in response to applications received from such issuing authorities and shall be based on the following factors: (i) The amount of housing to be made available by such applicant; (ii) the population within the jurisdiction of the applicant; (iii) coordination with other applicable federal and state housing programs; (iv) the likelihood of implementing the proposed financing during that year; and (v) consistency with the plan of the commission. On or before February 1 of each year, the *department of community, trade, and economic development shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. Each issuing authority other than the commission shall confirm its allocation distribution by providing to the *department of community, trade, and economic development no later than June 1 a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood of the allocation distribution being fully used. Any portion of such allocation not so confirmed shall be added to the allocation of the commission on July 1. Prior to July 1, the commission shall provide written notice of the allocation decrease to the affected issuing authority. The reallocation shall not limit the authority of the commission to assign a portion of its allocation pursuant to subsection (5)(c) of this section.

(c) The commission may assign a portion of its allocation to another issuing agency. [1995 c 399 § 99; 1986 c 264 § 3; 1985 c 6 § 15; 1984 c 28 § 1; 1983 c 161 § 20.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.180.220 Housing finance program—Mortgage financing—Investments—Flexible loan underwriting guidelines. The commission, in cooperation with the *department of community, trade, and economic development, and the state investment board, shall develop and implement a housing finance program that:

(1) Provides subsidized or unsubsidized mortgage financing for single-family homeownership, including a single condominium unit, located in the state of Washington;

(2) Requests the state investment board to make investments, within its policies and investment guidelines, in mortgage-backed securities that are collateralized by loans made within the state of Washington; and

(3) Provides flexible loan underwriting guidelines, including but not limited to provisions that will allow reduced downpayment requirements for the purchaser. [1994 c 235 § 1.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.180.230 Housing finance program—Program elements. The housing finance program developed under RCW 43.180.220 shall:

(1) Be limited to borrowers with incomes that do not exceed one hundred fifteen percent of the state or county median family income, whichever is higher, adjusted for family size;

(2) Be limited to first-time home buyers as defined in RCW 43.185A.010;

(3) Be targeted so that priority is given to low-income households as defined in RCW 43.185A.010;

(4) To the extent funds are made available, provide either downpayment or closing costs assistance to households eligible for assistance under chapter 43.185A RCW and this chapter; and

(5) Provide notification to active participants of the state retirement systems managed by the department of retirement systems under chapter 41.50 RCW. [1994 c 235 § 2.]

Additional notes found at www.leg.wa.gov

43.180.240 Housing finance program—Report to legislature annually—Implementation. (1) The commission shall submit to the legislature in its annual report a summary of the progress of the housing finance program developed under RCW 43.180.220. The report shall include, but not be limited to the number of loans made and location of property financed under RCW 43.180.220 and 43.180.230.

(2) The commission shall take such steps as are necessary to ensure that RCW 43.180.220 and 43.180.230 are implemented on June 9, 1994. [1994 c 235 § 3.]

Additional notes found at www.leg.wa.gov

43.180.245 Condominium conversion tenant-to-homeowner program. The commission shall implement a condominium conversion tenant-to-homeowner program focused on opportunities for first-time homeownership. The program must assist tenants in multifamily residential buildings that are planned to be converted to condominium ownership by providing information and resources relating to homeownership. The commission must refer such tenants to its home loan and down payment assistance programs as well as any applicable homebuyer education seminars available through local partnerships. The commission may establish income eligibility requirements for tenants and qualifying purchase price thresholds under the program that are consistent with the requirements and thresholds under existing commission programs. [2022 c 165 § 2.]

Findings—Intent—2022 c 165: "The legislature finds that condominiums can provide an opportunity for affordable first-time homeownership, and that an increased supply of multifamily construction in Washington state and condominium demand creates market conditions for condominium conversions. The legislature also finds that the federal housing administration's condominium rule adopted in 2019 will improve financing options for first-time homebuyers in the condominium market. The legislature also recog-

(2022 Ed.)

nizes that condominium conversions can create economic hardships on tenants in multifamily buildings. In addition to the change in tenancy, there are concerns about how the change of ownership will give power to condominium associations. There are different rules and different risks to be addressed. However, the legislature intends to ease these concerns and ensure that the power differential is addressed so that condominium ownership can build certainty for tenants as well as build wealth. It is the intent of the legislature to ensure that tenants of multifamily buildings planned to be converted to condominiums are provided with information and resources relating to homeownership opportunities, and to direct the affordable housing advisory board to review the subject of condominium conversions and provide a report to the legislature on issues relating to both homeownership opportunities and impacts to tenants." [2022 c 165 § 1.]

43.180.250 Veteran homeownership downpayment assistance program—Rules. (1) By January 1, 2007, the Washington state housing finance commission shall create and implement a veteran homeownership downpayment assistance program to work in conjunction with the commission's housing finance programs. The program will assist the following individuals purchase a home:

(a) Washington state residents who are veterans, as defined by RCW 41.04.007;

(b) Members and former members of the Washington national guard and reserve; and

(c) Never remarried spouses and dependent children of deceased veterans, as defined by RCW 41.04.007.

(2) The commission shall adopt rules providing procedures to assure that the downpayment assistance program is available for qualified veterans in a fair and equitable manner. [2006 c 252 § 1.]

43.180.260 Sustainable energy trust program. (1) If economically feasible, the commission shall develop and implement a sustainable energy trust program to provide financing for qualified improvement projects. In developing the sustainable energy trust program, the commission shall establish eligibility criteria for financing that will enable it to choose eligible applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of commission bonds.

(2) The commission shall, if economically feasible:

(a) Issue bonds, as defined in RCW 43.180.020, for the purpose of financing loans for qualified energy efficiency and renewable energy improvement projects in accordance with RCW 43.180.150;

(b) Participate fully in federal and other governmental programs and take actions that are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies;

(c) Contract with a certifying authority to accept applications for energy efficiency and renewable energy improvement projects, to review applications, including binding fixed price bids for the improvements, and to approve qualified improvements for financing by the commission. For solar electric systems, the certifying authority must use an application certification process similar to the investment cost recovery incentive application process provided under RCW 82.16.120. No work by a certifying authority may commence under this section until a request has been made by the commission; and

(d) Before entering into a contract with a certifying authority as defined in RCW 43.180.020(2)(b), consult with the Washington State University energy extension [extension energy] program to determine which potential improvement technologies are appropriate.

(3) No general fund resources may be expended to implement this section. [2009 c 65 § 3.]

Intent—Finding—2009 c 65: See note following RCW 43.180.020.

43.180.265 Aviation biofuels facilities and production—Bond issuance—Financing powers—Definitions.

(1) The commission may:

(a) Issue bonds for the purpose of financing all or part of the project costs of facilities that are primarily for the production, processing, or handling of aviation biofuels or for the production, processing, or handling of nonfossil biogenic feedstocks to be used in the production of aviation biofuels;

(b) Make or purchase loans for financing of these facilities; or

(c) Enter into financing documents relating to the repayment of those loans or the provision of, or security for, debt service on the bonds.

(2) In connection with the financing of project costs of facilities that are primarily for the production, processing, or handling of aviation biofuels, the commission may exercise the other powers granted the commission under this chapter, including the requirements under RCW 43.180.170 and 43.180.180.

(3) For the purposes of this section:

(a) "Aviation biofuels" means fuels for aviation from nonfossil biogenic feedstocks that meet the fuel quality technical standards of the American society for testing materials for aviation fuels and coproducts.

(b) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(c) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on bonds.

(d) "Project costs" means costs of:

(i) Acquisition, construction, and improvement of any facilities included in a facility;

(ii) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of a facility, including costs of studies assessing the feasibility of a facility;

(iii) Finance costs, including discounts, if any, the costs of issuing bonds, and costs incurred in carrying out any trust agreement;

(iv) Interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(v) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(vi) Other costs incidental to any of the costs listed in this section. [2012 c 63 § 3.]

Findings—Intent—2012 c 63: See note following RCW 43.157.010.

43.180.290 Beginning farmer financing program. (1)

The commission may develop and implement a program to provide financing for beginning farmers. In developing the program, the commission shall establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of commission bonds.

(2) The commission may:

(a) Issue revenue bonds as defined in RCW 43.180.020(1) for the purpose of financing loans to beginning farmers in accordance with RCW 43.180.150;

(b) Do all things necessary to provide for the exemption of interest on its bonds from federal income taxation; and

(c) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs for beginning farmers. [2005 c 120 § 2.]

Findings—Purpose—2005 c 120: "The legislature finds that there are a significant number of people from both urban and rural areas of the state with the training, expertise, and interest in initiating a livelihood in farming but who lack the financial resources to get started. The legislature also finds that the average age of existing farmers is increasing, the number of full-time commercial farms is decreasing, and an increasing concern that there will be insufficient young people who have both the capability and interest to fulfill the needs for the next generation.

The legislature finds that there are a significant number of new small farms in the state and a significant enrollment in agricultural courses offered by public community colleges and universities and the beginning farmer program offered by Washington State University cooperative extension.

The purpose of this act is to establish a program to test the feasibility, interest, and results of a beginning farmer loan program." [2005 c 120 § 1.]

43.180.295 Renewable energy systems—Report—Financing tool. (1)

It is the intent of the legislature to investigate methods by which the state may establish or facilitate financing models that allow electric utilities in the state to maximize federal tax incentives and monetize the depreciation of renewable energy systems and other distributed energy assets, with the goal of providing improved access to the benefits of these assets to low and moderate-income households as well as broad system benefits to utility ratepayers and state taxpayers.

(2) By December 31, 2017, the commission must prepare and submit to the appropriate committees of the legislature a report that assesses financing tools or models for the aggregation, by public or private entities, of federal tax incentives and other financial benefits accruing from the installation, ownership, and operation of renewable energy systems and other distributed energy resources. The report must:

(a) Assess the legal, financial, and economic feasibility of one or more financing tools or models for the aggregation of federal tax incentives and other financial benefits accruing from the installation, ownership, and operation of renewable energy systems and other distributed energy resources;

(b) Consider the state and federal legal aspects of such a financing tool or model, including considerations of how to structure the role of the state or any subdivision of the state in a manner that is consistent with the Constitution of the state of Washington; and

(c) Describe any legislation that may be necessary to facilitate, implement, or create incentives for the private sector to implement such a financing tool or model within the state.

(3) Beginning July 1, 2018, the commission may implement a financing tool or model for the aggregation, by public or private entities, of federal tax incentives and other financial benefits accruing from the installation, ownership, and operation of renewable energy systems and other distributed energy resources if the commission determines that it is legally, financially, and economically feasible and that it would further the public policy goals set forth in subsection (1) of this section. [2017 3rd sp.s. c 36 § 13.]

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

NONPROFIT CORPORATION FACILITIES

43.180.300 Definitions. As used in RCW 43.180.310 through 43.180.360, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Construction" or "construct" means construction and acquisition, whether by device, purchase, gift, lease, or otherwise.

(2) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(3) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(4) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement. "To improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(5) "Nonprofit corporation" means a nonprofit organization described under section 501(c)(3) of the Internal Revenue Code, or similar successor provisions, any public development authority, or any organization identified in RCW 43.185A.040.

(6) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for any nonprofit activity described under section 501(c)(3) of the Internal Revenue Code that qualifies such a corporation for an exemption from federal income taxes under section 501(a) of the Internal Revenue Code, or similar successor provisions provided that facilities which may be funded pursuant to chapter 28B.07, 35.82, or 70.37 RCW shall not be included in this definition.

(7) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in a nonprofit facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(8) "Revenue bond" means a taxable or tax-exempt non-recourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of providing financing to a nonprofit corporation on an interim or permanent basis.

(9) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise. [2018 c 78 § 2; 1997 c 44 § 1; 1990 c 167 § 2.]

43.180.310 Commission powers. The commission has the following powers with respect to nonprofit facilities together with all powers incidental thereto or necessary for the performance thereof:

(1) To make secured loans to nonprofit corporations for the purpose of providing temporary or permanent financing or refinancing of all or part of the project cost of any nonprofit facility, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the project costs of a nonprofit corporation; and to charge and collect interest on the loans for the loan payments upon such terms and conditions as its commissioners consider advisable which are not in conflict with this subchapter;

(2) To issue revenue bonds for the purpose of financing all or part of the project cost of any nonprofit facility and to secure the payment of the revenue bonds as provided in this subchapter;

(3) To collect fees or charges from users or prospective users of nonprofit facilities to recover actual or anticipated administrative costs;

(4) To execute financing documents incidental to the powers enumerated in this section;

(5) To accept grants and gifts;

(6) To establish such special funds with any financial institution providing fiduciary services within or without the state as it deems necessary and appropriate and invest money therein. [1990 c 167 § 3.]

43.180.320 Revenue bonds. (1) The proceeds of the revenue bonds of each issue shall be used solely for the purposes set forth in this subchapter and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. If the proceeds of the revenue bonds of any series issued with respect to the cost of any nonprofit facility exceeds the cost of the nonprofit facility for which issued, the surplus shall be deposited to the credit of the debt service fund for the revenue bonds or used to purchase the revenue bonds in the open market.

(2) The commission may issue interim notes in the manner provided for the issuance of revenue bonds to fund nonprofit facilities prior to issuing other revenue bonds to fund such facilities. The commission may issue revenue bonds to fund nonprofit facilities that are exchangeable for other revenue bonds, when these other revenue bonds are executed and available for delivery.

(3) The principal of and interest on any revenue bonds issued by the commission shall be secured by a pledge of unexpended bond proceeds and the revenues and receipts

derived from the nonprofit facilities funded by the revenue bonds pursuant to financing documents. The resolution under which the revenue bonds are authorized to be issued and any financing document may contain agreements and provisions respecting the maintenance or use of the nonprofit facility covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues or from revenue bond proceeds, the rights and remedies available in the event of default, and other provisions relating to the security for the bonds, all as the commission considers advisable which are not in conflict with this subchapter.

(4) All revenue bonds issued under this subchapter and any interest coupons applicable thereto are negotiable instruments within the meaning of Article 8 of the uniform commercial code, Title 62A RCW, regardless of form or character.

(5) Notwithstanding subsection (1) of this section, such bonds and interim notes may be issued and sold in accordance with chapter 39.46 RCW. [1990 c 167 § 4.]

43.180.330 Revenue refunding bonds. The commission may provide by resolution for the issuance of revenue refunding bonds for the purpose of refunding any obligations issued for a nonprofit facility, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of the revenue bonds and, if considered advisable by the commission, for the additional purpose of financing improvements, extensions, or enlargements to the nonprofit facility for another nonprofit facility. The issuance of the revenue refunding bonds, the maturities and other details thereof, the rights of the owners thereof, and the rights, duties, and obligations of the commission in respect to the same shall be governed by this chapter insofar as applicable. [1990 c 167 § 5.]

43.180.340 Trust agreements. Any bonds issued under this subchapter may be secured by a trust agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may evidence a pledge or assignment of the financing documents and lease, sale, or loan revenues to be received from a lessee or purchaser of or borrower with respect to a nonprofit facility for the payment of principal of and interest and any premium on the bonds as the same shall become due and payable and may provide for creation and maintenance of reserves for these purposes. A trust agreement or resolution providing for the issuance of the revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondowners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties in relation to the acquisition of property and the construction, improvement, maintenance, use, repair, operation, and insurance of the nonprofit facility for which the bonds are authorized, and the custody, safeguarding, and application of all money. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of revenue bonds or of revenues may furnish such indemnifying bonds or pledge such securities as may be required by the commission. A trust agreement may set forth the rights and

remedies of the bondowners and of the trustee and may restrict the individual right of action by bondowners as is customary in trust agreements or trust indentures securing bonds and debentures of private corporations. In addition, a trust agreement may contain such provisions as the commission considers reasonable and proper for the security of the bondowners which are not in conflict with this subchapter. [1990 c 167 § 6.]

43.180.350 Lessees or assignees. A lessee or contracting party under a sale contract or loan agreement shall not be required to be the eventual user of a nonprofit facility if any sublessee or assignee assumes all of the obligations of the lessee or contracting party under the lease, sale contract, or loan agreement, but the lessee or contracting party or their successors shall remain primarily liable for all of its obligations under the lease, sale contract, or loan agreement and the use of the nonprofit facility shall be consistent with the purposes of this subchapter. [1990 c 167 § 7.]

43.180.360 Default. The proceedings authorizing any revenue bonds under this subchapter or any financing document securing the revenue bonds may provide that if there is a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or financing document, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan repayments, and to apply the revenues from the nonprofit facility in accordance with the proceedings or provisions of the financing document. Any financing document entered into under this subchapter may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the financing document, the nonprofit facility may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Any financing document may also provide that any trustee under the financing document or the holder of any revenue bonds secured thereby may become the purchaser at any foreclosure sale if it is the highest bidder. [1990 c 167 § 8.]

43.180.900 Conflict with federal requirements. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 c 161 § 21.]

43.180.901 Liberal construction. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof. [1983 c 161 § 23.]

43.180.902 Captions not part of law. As used in this chapter and RCW 82.04.408, section captions constitute no part of the law. [1983 c 161 § 24.]

43.180.904 Effective dates—1983 c 161. (1) Except as provided in subsection (2) of this section, this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 10 of this act shall take effect on January 1, 1984. [1983 c 161 § 32.]

43.180.905 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 109.]

Chapter 43.185 RCW HOUSING ASSISTANCE PROGRAM

Sections

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43.185.910	Conflict with federal requirements—1991 c 356.

Donations of surplus state property: RCW 43.19.1920.

Funding: RCW 43.79.201 and 79.02.410.

43.185.010 Findings. The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.

The legislature further finds that members of over one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income.

The legislature further finds that minorities, rural households, and migrant farmworkers require housing assistance at a rate which significantly exceeds their proportion of the general population.

The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as the mentally ill, recovering alcoholics, frail elderly persons, families with members who have disabilities, and single parents. These services include medical assistance, counseling, chore services, and child care.

The legislature further finds that housing assistance programs in the past have often failed to help those in greatest need.

The legislature declares that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority and that whenever feasible, assistance should be in the form of loans. [1991 c 356 § 1; 1986 c 298 § 1.]

43.185.015 Housing assistance program. There is created within the department the housing assistance program to carry out the purposes of this chapter. [1995 c 399 § 100; 1991 c 356 § 2.]

43.185.020 Definitions. (1) "Contracted amount" means the aggregate amount of all state funds for which the department has monitoring and compliance responsibility.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce. [2013 c 145 § 1; 2009 c 565 § 37; 1995 c 399 § 101; 1986 c 298 § 3.]

43.185.030 Washington housing trust fund. There is hereby created in the state treasury an account to be known as the Washington housing trust fund. The housing trust fund shall include revenue from the sources established by this chapter, appropriations by the legislature, private contributions, repayment of loans, and all other sources. During the 2015-2017 fiscal biennium, the legislature may transfer from the Washington housing trust fund to the home security fund account and to the state general fund such amounts as reflect the excess balance in the fund. [2016 sp.s. c 36 § 936; 1991 sp.s. c 13 § 87; 1991 c 356 § 3; 1987 c 513 § 6; 1986 c 298 § 2.]

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Distribution of interest from real estate brokers' trust accounts: RCW 18.85.285.

Additional notes found at www.leg.wa.gov

43.185.050 Use of moneys for loans and grant projects to provide housing—Eligible activities. (1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of

these moneys used in any given funding cycle must be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing;

(k) Projects making housing more accessible to families with members who have disabilities; and

(l) Remodeling and improvements as required to meet building code, licensing requirements, or legal operations to residential properties owned and operated by an entity eligible under RCW 43.185A.040, which were transferred as described in RCW 82.45.010(3)(t) by the parent of a child with developmental disabilities.

(3) Preference must be given for projects that include an early learning facility, as defined in RCW 43.31.565.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department, except that during the 2021-2023 fiscal biennium, the department may use up to three percent of the appropriations from capital bond proceeds for administrative costs associated with application, distribution, and project development activities of the housing assistance program.

(5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

(6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations

must not be included in the calculation of the annual funds available for determining the administrative costs.

(7) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the housing assistance program. [2021 c 332 § 7032; 2021 c 130 § 5; 2018 c 223 § 4; 2017 3rd sp.s. c 12 § 13; 2013 c 145 § 2; 2011 1st sp.s. c 50 § 953; 2006 c 371 § 236. Prior: 2005 c 518 § 1801; 2005 c 219 § 1; 2002 c 294 § 6; 1994 c 160 § 1; 1991 c 356 § 4; 1986 c 298 § 6.]

Reviser's note: This section was amended by 2021 c 130 § 5 and by 2021 c 332 § 7032, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2021 c 332: See note following RCW 43.19.501.

Findings—2018 c 223: See note following RCW 82.45.010.

Findings—Intent—Effective date—2017 3rd sp.s. c 12: See notes following RCW 43.31.565.

Findings—2002 c 294: See note following RCW 36.22.178.

Additional notes found at www.leg.wa.gov

43.185.060 Eligible organizations. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, behavioral health administrative services organizations established under chapter 71.24 RCW, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made. [2019 c 325 § 5012; 2014 c 225 § 61; 1994 c 160 § 2; 1991 c 295 § 1; 1986 c 298 § 7.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation. (1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185.050.

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) Until June 30, 2013, consider the total cost and per-unit cost of each project for which an application is submitted for funding under RCW 43.185.050(2) (a) and (j), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department, with advice and input from the affordable housing advisory board established in RCW

43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.

(4) The department must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities must be evaluated under subsection (5) of this section. Second priority must be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities must be evaluated by some or all of the criteria under subsection (5) of this section, and similar projects and activities shall be evaluated under the same criteria.

(5) The department must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youth-build-type program as defined in RCW 50.72.020;

(m) Project location and access to available public transportation services; and

(n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity

for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department. [2019 c 325 § 5013; 2015 c 155 § 2; (2015 c 155 § 1 expired April 1, 2016); 2014 c 225 § 62; 2013 c 145 § 3; 2012 c 235 § 1. Prior: 2005 c 518 § 1802; 2005 c 219 § 2; 1994 sp.s. c 3 § 9; prior: 1991 c 356 § 5; 1991 c 295 § 2; 1988 c 286 § 1; 1986 c 298 § 8.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2015 c 155 § 2: "Section 2 of this act takes effect April 1, 2016." [2015 c 155 § 4.]

Expiration date—2015 c 155 § 1: "Section 1 of this act expires April 1, 2016." [2015 c 155 § 3.]

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

43.185.074 Low-income housing grants and loans—Applications. The director shall designate grant and loan applications for approval and for funding under the revenue from remittances made pursuant to *RCW 18.85.310. These applications shall then be reviewed for final approval by the broker's trust account board created by **RCW 18.85.500.

The director shall submit to the broker's trust account board within any fiscal year only such applications which in their aggregate total funding requirements do not exceed the revenue to the housing trust fund [fund] from remittances made pursuant to *RCW 18.85.310 for the previous fiscal year. [1987 c 513 § 11. Formerly RCW 18.85.505.]

Reviser's note: *(1) RCW 18.85.310 was recodified as RCW 18.85.285 pursuant to 2008 c 23 § 49, effective July 1, 2010.

***(2) RCW 18.85.500 was repealed by 1994 sp.s. c 9 § 857, effective July 1, 1994.

Additional notes found at www.leg.wa.gov

43.185.076 Low-income housing grants and loans—Approval—License education programs. The broker's trust account board shall review grant and loan applications placed before it by the director for final approval pursuant to RCW 43.185.074.

The decisions of the board shall be subject to the provisions of RCW 43.185.050, 43.185.060, and 43.185.070 with regard to eligible activities, eligible recipients, and criteria for evaluation.

The broker's trust account board shall serve in an advisory capacity to the real estate commission with regard to licensee education programs established pursuant to *RCW 18.85.040 and 18.85.220. [1988 c 286 § 3; 1987 c 513 § 10. Formerly RCW 18.85.510.]

***Reviser's note:** RCW 18.85.040 and 18.85.220 were recodified as RCW 18.85.041 and 18.85.061, respectively, pursuant to 2008 c 23 § 49, effective July 1, 2010.

Additional notes found at www.leg.wa.gov

43.185.080 Preconstruction technical assistance. (1) The department may use moneys from the housing trust fund and other legislative appropriations, but not appropriations from capital bond proceeds, to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low and low-income persons. The department shall emphasize providing preconstruction technical assistance services to rural areas and small cities and towns. The department may

contract with nonprofit organizations to provide this technical assistance. The department may contract for any of the following services:

- (a) Financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;
- (b) Project design, architectural planning, and siting;
- (c) Compliance with planning requirements;
- (d) Securing matching resources for project development;
- (e) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances, or creative local planning;
- (f) Coordination with local planning, economic development, and environmental, social service, and recreational activities;
- (g) Construction and materials management; and
- (h) Project maintenance and management.

(2) The department shall publish requests for proposals which specify contract performance standards, award criteria, and contractor requirements. In evaluating proposals, the department shall consider the ability of the contractor to provide technical assistance to low and very low-income persons and to persons with special housing needs. [1991 c 356 § 6; 1986 c 298 § 9.]

43.185.090 Compliance monitoring. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan. [1986 c 298 § 10.]

43.185.100 Rule-making authority. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. The department shall consider the recommendations of cities and counties regarding how the funds shall be used in their geographic areas. [1987 c 513 § 2; 1986 c 298 § 11.]

Additional notes found at www.leg.wa.gov

43.185.110 Affordable housing advisory board—State housing needs. The affordable housing advisory board established in RCW 43.185B.020 shall advise the director on housing needs in this state, including housing needs for persons with mental illness or developmental disabilities or youth who are blind or deaf or otherwise disabled, operational aspects of the grant and loan program or revenue collection programs established by this chapter, and implementation of the policy and goals of this chapter. Such advice shall be consistent with policies and plans developed by behavioral health administrative services organizations according to chapter 71.24 RCW for individuals with mental illness and the developmental disabilities planning council for individuals with developmental disabilities. [2019 c 325 § 5014; 2014 c 225 § 63; 1993 c 478 § 15; 1991 c 204 § 4; 1987 c 513 § 3.]

Effective date—2019 c 325: See note following RCW 71.24.011.

Effective date—2014 c 225: See note following RCW 71.24.016.

Additional notes found at www.leg.wa.gov

43.185.120 Protection of state's interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW 43.185.050(2) (a), (i), and (j). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 7.]

43.185.130 Application process—Distribution procedure. The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure for the housing trust fund, described in this chapter and chapter 43.185A RCW, except for the funds applied to the *homeless families services fund created in RCW 43.330.167, dollars appropriated to weatherization administered through the energy matchmaker program, dollars appropriated for housing vouchers for homeless persons, victims of domestic violence, and low-income persons or seasonal farmworkers, and dollars appropriated to any program to provide financial assistance for grower-provided on-farm housing for low-income migrant or seasonal farmworkers. [2006 c 349 § 3.]

*Reviser's note: The "homeless families services fund" was renamed the "Washington youth and families fund" by 2015 c 69 § 24.

Finding—2006 c 349: "The legislature finds that Washington is experiencing an affordable housing crisis and that this crisis is growing exponentially every year as the population of the state expands and housing values increase at a rate that far exceeds most households' proportionate increase in income.

The fiscal and societal costs of the lack of adequate affordable housing are high for both the public and private sectors. Current levels of funding for affordable housing programs are inadequate to meet the housing needs of many low-income Washington households." [2006 c 349 § 1.]

43.185.140 Findings—Review of all housing properties—Energy audits. (1) The legislature finds that growing preservation and rehabilitation needs in the housing trust fund property portfolio provide opportunities to advance energy efficiency and weatherization efforts for low-income individuals in Washington state while protecting the state's six hundred million dollars in affordable housing investments. Preservation of existing affordable housing, when done in conjunction with weatherization activities, is a cost-effective, prudent, and environmentally friendly strategy to ensure that low-income housing remains durable, safe, and affordable. Therefore, the legislature intends that where federal funds are available for increasing and improving energy efficiency of low-income housing that these funds must be utilized, subject to federal requirements, for energy audits and implementing energy efficiency measures in the state housing trust fund real estate portfolio.

(2) The department shall review all housing properties in the housing trust fund real estate portfolio and identify those in need of major renovation or rehabilitation. In its review, the department shall survey property owners for information including, but not limited to, the age of the building and the

type of heating, cooling, plumbing, and electrical systems contained in the property. The department shall prioritize all renovation or rehabilitation projects identified in the review by the department's ability to:

(a) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the greatest period of time;

(b) Promote the greatest possible health and safety improvements for residents of low-income households; and

(c) Leverage, to the extent feasible, technologically advanced and environmentally friendly sustainable technologies, practices, and designs.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall use the prioritization of potential energy efficiency needs and opportunities in subsection (2) of this section to make offers of energy audit services to project owners and operators. The department shall use all practicable means to achieve the completion of energy audits in at least twenty-five percent of the properties in its portfolio that exceed twenty-five years in age, by June 30, 2011. Where the energy audits identify cost-effective weatherization and other energy efficiency measures, the department shall accord a priority within appropriated funding levels to include funding for energy efficiency improvements when the department allocates funding for renovation or rehabilitation of the property. [2009 c 379 § 301.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70A.50.010.

43.185.910 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 8.]

Chapter 43.185A RCW AFFORDABLE HOUSING PROGRAM

Sections

43.185A.010	Definitions.
43.185A.020	Affordable housing program—Purpose—Input.
43.185A.030	Activities eligible for assistance.
43.185A.040	Eligible organizations.
43.185A.050	Grant and loan application process—Report.
43.185A.060	Protection of state interest.
43.185A.070	Monitor recipient activities.
43.185A.080	Rules.
43.185A.090	Application process—Distribution procedure.
43.185A.100	Housing programs and services—Review of reporting requirements—Report to the legislature.
43.185A.110	Affordable housing land acquisition revolving loan fund program.
43.185A.120	Affordable housing and community facilities rapid response loan program.
43.185A.900	Short title.
43.185A.902	Conflict with federal requirements—1991 c 356.

(2022 Ed.)

43.185A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income. The department must adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Contracted amount" has the same meaning as provided in RCW 43.185.020.

(3) "Department" means the department of commerce.

(4) "Director" means the director of the department of commerce.

(5) "First-time home buyer" means an individual or his or her spouse or domestic partner who have not owned a home during the three-year period prior to purchase of a home.

(6) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located. [2013 c 145 § 4; 2009 c 565 § 38; 2008 c 6 § 301; 2000 c 255 § 9; 1995 c 399 § 102; 1991 c 356 § 10.]

Additional notes found at www.leg.wa.gov

43.185A.020 Affordable housing program—Purpose—Input. The affordable housing program is created in the department for the purpose of developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [1995 c 399 § 103; 1993 c 478 § 16; 1991 c 356 § 11.]

43.185A.030 Activities eligible for assistance. (1) Using moneys specifically appropriated for such purpose, the department shall finance in whole or in part projects that will provide housing for low-income households.

(2) Activities eligible for assistance include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of housing for low-income households;

(b) Rent subsidies in new construction or rehabilitated multifamily units;

(c) Down payment or closing costs assistance for first-time home buyers;

(d) Mortgage subsidies for new construction or rehabilitation of eligible multifamily units; and

(e) Mortgage insurance guarantee or payments for eligible projects.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (c), (d), and (e) of this section, and not for the administrative costs of the department.

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(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the affordable housing program except for activities authorized under subsection (2)(b) of this section.

(5) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the affordable housing program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(6) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the affordable housing program. [2013 c 145 § 5; 2011 1st sp.s. c 50 § 954. Prior: 2005 c 518 § 1803; 2005 c 219 § 3; 1994 c 160 § 3; 1991 c 356 § 12.]

Additional notes found at www.leg.wa.gov

43.185A.040 Eligible organizations. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, non-profit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made. [1994 c 160 § 4; 1991 c 356 § 13.]

43.185A.050 Grant and loan application process—Report. (1) During each calendar year in which funds are available for use by the department for the affordable housing program, the department must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185A.030.

(2) Until June 30, 2013, for applications submitted for funding under RCW 43.185A.030(2)(a), the department must consider total cost and per-unit cost of each project compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department must develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board:

(a) Additional criteria to evaluate applications for assistance under this chapter; and

(b) Recommendations for awarding funds under RCW 43.185A.030(2)(a) in a cost-effective manner, including an implementation plan, timeline, and any other items the department identifies as important to consider. The department must submit a report with the recommendations to the legislature by December 1, 2012. [2013 c 145 § 6; 2012 c 235 § 2; 1991 c 356 § 14.]

43.185A.060 Protection of state interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW 43.185A.030(2) (a), (b), (c), (d), and (e). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 15.]

43.185A.070 Monitor recipient activities. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan. [1991 c 356 § 16.]

43.185A.080 Rules. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. [1991 c 356 § 17.]

43.185A.090 Application process—Distribution procedure. The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure described in RCW 43.185.130. [2006 c 349 § 4.]

Finding—2006 c 349: See note following RCW 43.185.130.

43.185A.100 Housing programs and services—Review of reporting requirements—Report to the legislature. The department, the housing finance commission, the affordable housing advisory board, and all local governments, housing authorities, and other nonprofits receiving state housing funds or financing through the housing finance commission shall, by December 31, 2006, and annually thereafter, review current housing reporting requirements related to housing programs and services and give recommendations to streamline and simplify all planning and reporting requirements to the *department of community, trade, and economic development, which will compile and present the recommendations annually to the legislature. The entities listed in this section shall also give recommendations for additional legislative actions that could promote affordable housing and end homelessness. [2006 c 349 § 11.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—2006 c 349: See note following RCW 43.185.130.

43.185A.110 Affordable housing land acquisition revolving loan fund program. (1) The affordable housing land acquisition revolving loan fund program is created in the department to assist eligible organizations, described under RCW 43.185A.040, to purchase land for affordable housing development. The department shall contract with the Washington state housing finance commission to administer the affordable housing land acquisition revolving loan fund program. Within this program, the Washington state housing

finance commission shall establish and administer the Washington state housing finance commission land acquisition revolving loan fund.

(2) As used in this chapter, "market rate" means the current average market interest rate that is determined at the time any individual loan is closed upon using a widely recognized current market interest rate measurement to be selected for use by the Washington state housing finance commission with the department's approval. This interest rate must be noted in an attachment to the closing documents for each loan.

(3) Under the affordable housing land acquisition revolving loan fund program:

(a) Loans may be made to purchase vacant or improved land on which to develop affordable housing. In addition to affordable housing, facilities intended to provide supportive services to affordable housing residents and low-income households in the nearby community may be developed on the land.

(b) Eligible organizations applying for a loan must include in the loan application a proposed affordable housing development plan indicating the number of affordable housing units planned, a description of any other facilities being considered for the property, and an estimated timeline for completion of the development. The Washington state housing finance commission may require additional information from loan applicants and may consider the efficient use of land, project readiness, organizational capacity, and other factors as criteria in awarding loans.

(c) Forty percent of the loans shall go to eligible applicants operating homeownership programs for low-income households in which the households participate in the construction of their homes. Sixty percent of loans shall go to other eligible organizations. If the entire forty percent for applicants operating self-help homeownership programs cannot be lent to these types of applicants, the remainder shall be lent to other eligible organizations.

(d) Within five years of receiving a loan, a loan recipient must present the Washington state housing finance commission with an updated development plan, including a proposed development design, committed and anticipated additional financial resources to be dedicated to the development, and an estimated development schedule, which indicates completion of the development within eight years of loan receipt. This updated development plan must be substantially consistent with the development plan submitted as part of the original loan application as required in (b) of this subsection.

(e) Within eight years of receiving a loan, a loan recipient must develop affordable housing on the property for which the loan was made and place the affordable housing into service.

(f) A loan recipient must preserve the affordable rental housing developed on the property acquired under this section as affordable housing for a minimum of thirty years.

(4) If a loan recipient does not place affordable housing into service on a property for which a loan has been received under this section within the eight-year period specified in subsection (3)(e) of this section, or if a loan recipient fails to use the property for the intended affordable housing purpose consistent with the loan recipient's original affordable housing development plan, then the loan recipient must pay to the

Washington state housing finance commission an amount consisting of the principal of the original loan plus compounded interest calculated at the current market rate. The Washington state housing finance commission shall develop guidelines for the time period in which this repayment must take place, which must be noted in the original loan agreement. The Washington state housing finance commission may grant a partial or total exemption from this repayment requirement if it determines that a development is substantially complete or that the property has been substantially used in keeping with the original affordable housing purpose of the loan. Any repayment funds received as a result of non-compliance with loan requirements shall be deposited into the Washington state housing finance commission land acquisition revolving loan fund for the purposes of the affordable housing land acquisition revolving loan fund program.

(5) The Washington state housing finance commission, with approval from the department, may adopt guidelines and requirements that are necessary to administer the affordable housing land acquisition revolving loan fund program.

(6) Interest rates on property loans granted under this section may not exceed one percent. All loan repayment moneys received shall be deposited into the Washington state housing finance commission affordable housing land acquisition revolving loan fund for the purposes of the affordable housing land acquisition revolving loan fund program.

(7) The Washington state housing finance commission must develop performance measures for the program, which must be approved by the department, including, at a minimum, measures related to:

(a) The ability of eligible organizations to access land for affordable housing development;

(b) The total number of dwelling units by housing type and the total number of low-income households and persons served; and

(c) The financial efficiency of the program as demonstrated by factors, including the cost per unit developed for affordable housing units in different areas of the state and a measure of the effective use of funds to produce the greatest number of units for low-income households.

(8) By December 1st of each year, beginning in 2007, the Washington state housing finance commission shall report to the department and the appropriate committees of the legislature using, at a minimum, the performance measures developed under subsection (7) of this section. [2017 c 274 § 1; 2008 c 112 § 1; 2007 c 428 § 2.]

Findings—2007 c 428: "The legislature finds that protecting the public health, safety, and welfare by providing affordable housing resources to needy or vulnerable persons is a fundamental purpose of government. The legislature further finds that assisting eligible organizations to purchase land for affordable housing development and related supportive services facilities confers a valuable benefit on the public that constitutes consideration for financing assistance to eligible organizations in the form of low-interest loans, subject to restrictions that provide continued protection of the public interest." [2007 c 428 § 1.]

Additional notes found at www.leg.wa.gov

43.185A.120 Affordable housing and community facilities rapid response loan program. (1) The affordable housing and community facilities rapid response loan program is created in the department to assist eligible organiza-

tions, described under RCW 43.185A.040, to purchase land or real property for affordable housing and community facilities preservation or development in rapidly gentrifying neighborhoods or communities with a significant low-income population that is threatened with displacement by such gentrification. The department shall contract with the Washington state housing finance commission to establish and administer the program.

(2) Loans or grants may be made through the affordable housing and community facilities rapid response loan program to purchase land or real property for the preservation or development of affordable housing or community facilities, including reasonable costs and fees.

(3) The Washington state housing finance commission, with approval from the department, may adopt guidelines and requirements that are necessary to administer the affordable housing and community facilities rapid response loan program.

(4) A loan or grant recipient must preserve affordable rental housing acquired or developed under this section as affordable housing for a minimum of thirty years.

(5) Interest rates on loans made under this section may be as low as zero percent but may not exceed three percent. All loan repayment moneys received must be deposited into a program account established by the Washington state housing finance commission for the purpose of making new loans and grants under this section.

(6) By December 1st of each year, beginning in 2008, the Washington state housing finance commission shall report to the department and the appropriate committees of the legislature: The number of loans and grants that were made in the program; for what purposes the loans and grants were made; to whom the loans and grants were made; and when the loans are expected to be paid back. [2008 c 112 § 2.]

43.185A.900 Short title. This chapter may be known and cited as the affordable housing act. [1991 c 356 § 9.]

43.185A.902 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 19.]

Chapter 43.185B RCW WASHINGTON HOUSING POLICY ACT

Sections

43.185B.005	Finding.
43.185B.007	Goal.
43.185B.009	Objectives.
43.185B.010	Definitions.
43.185B.020	Affordable housing advisory board—Generally (<i>as amended by 2022 c 165</i>).
43.185B.020	Affordable housing advisory board—Generally (<i>as amended by 2022 c 266</i>).
43.185B.030	Affordable housing advisory board—Duties.

43.185B.031	Affordable housing advisory board—Review of condominium conversion issues—Report.
43.185B.040	Housing advisory plan—Report to legislature.
43.185B.900	Short title.

43.185B.005 Finding. (1) The legislature finds that:

(a) Housing is of vital statewide importance to the health, safety, and welfare of the residents of the state;

(b) Reducing homelessness and moving individuals and families toward stable, affordable housing is of vital statewide importance;

(c) Safe, affordable housing is an essential factor in stabilizing communities;

(d) Residents must have a choice of housing opportunities within the community where they choose to live;

(e) Housing markets are linked to a healthy economy and can contribute to the state's economy;

(f) Land supply is a major contributor to the cost of housing;

(g) Housing must be an integral component of any comprehensive community and economic development strategy;

(h) State and local government must continue working cooperatively toward the enhancement of increased housing units by reviewing, updating, and removing conflicting regulatory language;

(i) State and local government should work together in developing creative ways to reduce the shortage of housing;

(j) The lack of a coordinated state housing policy inhibits the effective delivery of housing for some of the state's most vulnerable citizens and those with limited incomes; and

(k) It is in the public interest to adopt a statement of housing policy objectives.

(2) The legislature declares that the purposes of the Washington housing policy act are to:

(a) Provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;

(b) Reevaluate housing and housing-related programs and policies in order to ensure proper coordination of those programs and policies to meet the housing needs of Washington residents;

(c) Improve the delivery of state services and assistance to very low-income and low-income households and special needs populations;

(d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to targeted populations including low-income and moderate-income households;

(e) Increase the supply of housing for persons with special needs;

(f) Encourage collaborative planning with social service providers;

(g) Encourage financial institutions to increase residential mortgage lending; and

(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level. [2005 c 484 § 22; 1993 c 478 § 1.]

Findings—Conflict with federal requirements—Effective date—2005 c 484: See RCW 43.185C.005, 43.185C.901, and 43.185C.902.

Persons with handicaps: RCW 35.63.220, 35A.63.240, 36.70.990, 36.70A.410.

43.185B.007 Goal. It is the goal of the state of Washington to coordinate, encourage, and direct, when necessary, the efforts of the public and private sectors of the state and to cooperate and participate, when necessary, in the attainment of a decent home in a healthy, safe environment for every resident of the state. The legislature declares that attainment of that goal is a state priority. [1993 c 478 § 2.]

43.185B.009 Objectives. The objectives of the Washington housing policy act shall be to attain the state's goal of a decent home in a healthy, safe environment for every resident of the state by strengthening public and private institutions that are able to:

- (1) Develop an adequate and affordable supply of housing for all economic segments of the population, including the destitute;
- (2) Identify and reduce the causal factors preventing the state from reaching its goal;
- (3) Assist very low-income and special needs households who cannot obtain affordable, safe, and adequate housing in the private market;
- (4) Encourage and maintain homeownership opportunities;
- (5) Reduce life-cycle housing costs while preserving public health and safety;
- (6) Preserve the supply of existing affordable housing;
- (7) Provide housing for special needs populations;
- (8) Ensure fair and equal access to the housing market;
- (9) Increase the availability of mortgage credit at low interest rates; and
- (10) Coordinate and be consistent with the goals, objectives, and required housing element of the comprehensive plan in the state's growth management act in RCW 36.70A.070. [2005 c 484 § 23; 1993 c 478 § 3.]

Findings—Conflict with federal requirements—Effective date—2005 c 484: See RCW 43.185C.005, 43.185C.901, and 43.185C.902.

43.185B.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Affordable housing" means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.
- (2) "Department" means the department of commerce.
- (3) "Director" means the director of commerce.
- (4) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income, low-income, or moderate-income households and special needs populations.
- (5) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including those embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by the state or local government in connection with its strategy under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. 12701 et seq.).

(2022 Ed.)

(6) "Tenant-based organization" means a nonprofit organization whose governing body includes a majority of members who reside in the housing development and are considered low-income households. [2009 c 565 § 39; 1995 c 399 § 104; 1993 c 478 § 4.]

43.185B.020 Affordable housing advisory board—Generally (as amended by 2022 c 165). (1) The department shall establish the affordable housing advisory board to consist of ~~((twenty-two))~~ 23 members.

(a) The following ~~((nineteen))~~ 20 members shall be appointed by the governor:

- (i) Two representatives of the residential construction industry;
- (ii) Two representatives of the home mortgage lending profession;
- (iii) One representative of the real estate sales profession;
- (iv) One representative of the apartment management and operation industry;
- (v) One representative of the for-profit housing development industry;
- (vi) One representative of for-profit rental housing owners;
- (vii) One representative of the nonprofit housing development industry;
- (viii) One representative of homeless shelter operators;
- (ix) One representative of lower-income persons;
- (x) One representative of special needs populations;
- (xi) One representative of public housing authorities as created under chapter 35.82 RCW;
- (xii) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;
- (xiii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;
- (xiv) One representative to serve as chair of the affordable housing advisory board;
- (xv) One representative at large; and
- (xvi) One representative from a unit owners' association as defined in RCW 64.34.020 or 64.90.010.

(b) The following three members shall serve as ex officio, nonvoting members:

- (i) The director or the director's designee;
- (ii) The executive director of the Washington state housing finance commission or the executive director's designee; and
- (iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board. [2022 c 165 § 8; 2003 c 40 § 1; 1993 c 478 § 5.]

Findings—Intent—2022 c 165: See note following RCW 43.180.245.

43.185B.020 Affordable housing advisory board—Generally (as amended by 2022 c 266). (1) The department shall establish the affordable housing advisory board to consist of ~~((twenty-two))~~ 23 members.

(a) The following ~~((nineteen))~~ 20 members shall be appointed by the governor:

- (i) Two representatives of the residential construction industry;
- (ii) Two representatives of the home mortgage lending profession;
- (iii) One representative of the real estate sales profession;
- (iv) One representative of the apartment management and operation industry;
- (v) One representative of the for-profit housing development industry;
- (vi) One representative of for-profit rental housing owners;
- (vii) One representative of the nonprofit housing development industry;
- (viii) One representative of homeless shelter operators;
- (ix) One representative of lower-income persons;
- (x) One representative of special needs populations;
- (xi) One representative of public housing authorities as created under chapter 35.82 RCW;
- (xii) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;
- (xiii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;
- (xiv) One representative to serve as chair of the affordable housing advisory board;
- (xv) One representative of organizations that operate site-based permanent supportive housing and deliver onsite supportive housing services; and
- (xvi) One representative at large.

(b) The following three members shall serve as ex officio, nonvoting members:

- (i) The director or the director's designee;
- (ii) The executive director of the Washington state housing finance commission or the executive director's designee; and
- (iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board. [2022 c 266 § 3; 2003 c 40 § 1; 1993 c 478 § 5.]

Reviser's note: RCW 43.185B.020 was amended twice during the 2022 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Findings—Intent—2022 c 266: See note following RCW 43.330.425.

43.185B.030 Affordable housing advisory board—Duties. The affordable housing advisory board shall:

(1) Analyze those solutions and programs that could begin to address the state's need for housing that is affordable

for all economic segments of the state, and special needs populations, including but not limited to programs or proposals which provide for:

(a) Financing for the acquisition, rehabilitation, preservation, or construction of housing;

(b) Use of publicly owned land and buildings as sites for affordable housing;

(c) Coordination of state initiatives with federal initiatives and financing programs that are referenced in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended, and development of an approved housing strategy as required in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended;

(d) Identification and removal, where appropriate and not detrimental to the public health and safety, or environment, of state and local regulatory barriers to the development and placement of affordable housing;

(e) Stimulating public and private sector cooperation in the development of affordable housing; and

(f) Development of solutions and programs affecting housing, including the equitable geographic distribution of housing for all economic segments, as the advisory board deems necessary;

(2) Consider both homeownership and rental housing as viable options for the provision of housing. The advisory board shall give consideration to various types of residential construction and innovative housing options, including but not limited to manufactured housing;

(3) Review, evaluate, and make recommendations regarding existing and proposed housing programs and initiatives including but not limited to tax policies, land use policies, and financing programs. The advisory board shall provide recommendations to the director, along with the department's response in the annual housing report to the legislature required in RCW 43.185B.040; and

(4) Prepare and submit to the director, by each December 1st, beginning December 1, 1993, a report detailing its findings and make specific program, legislative, and funding recommendations and any other recommendations it deems appropriate. [1993 c 478 § 6.]

43.185B.031 Affordable housing advisory board—Review of condominium conversion issues—Report. (1) The affordable housing advisory board must review issues associated with the conversion of multifamily buildings to condominium ownership including, but not limited to:

(a) An assessment of the current housing market and affordability of condominium conversions, especially for first-time homebuyers;

(b) Statutory, regulatory, financial, or other barriers to condominium conversions as a viable source of housing supply for first-time homebuyers;

(c) Impacts to tenants caused by the conversion of multifamily buildings to condominium ownership, and the adequacy of programs and resources for tenant rental relocation and other assistance;

(d) Programs in other states using condominium ownership as a first-time homeownership opportunity, including those focused on employer-specific programs for teachers,

police officers, firefighters, or other public service occupations in high-cost areas;

(e) Specific areas in counties subject to the buildable lands review and evaluation program in RCW 36.70A.215 where condominium conversion could provide first-time homebuyer opportunities in proximity to light rail, express bus service, or other forms of mass transit; and

(f) Concerns regarding condominium associations, particularly, accountability of condominium association boards, collection of fees, effective communication, representation regarding covenants, fairness in liens and foreclosures, and impartiality in insurance claims.

(2) The board must provide a report on its review to the appropriate standing committees of the legislature by December 1, 2022. In conducting its review, the board shall seek input from stakeholders with expertise in both the condominium conversion process and in providing tenant relocation programs and assistance. [2022 c 165 § 7.]

Findings—Intent—2022 c 165: See note following RCW 43.180.245.

43.185B.040 Housing advisory plan—Report to legislature. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, prepare and from time to time amend a five-year housing advisory plan. The purpose of the plan is to document the need for affordable housing in the state and the extent to which that need is being met through public and private sector programs, to facilitate planning to meet the affordable housing needs of the state, and to enable the development of sound strategies and programs for affordable housing. The information in the five-year housing advisory plan must include:

(a) An assessment of the state's housing market trends;

(b) An assessment of the housing needs for all economic segments of the state and special needs populations;

(c) An inventory of the supply and geographic distribution of affordable housing units made available through public and private sector programs;

(d) A status report on the degree of progress made by the public and private sector toward meeting the housing needs of the state;

(e) An identification of state and local regulatory barriers to affordable housing and proposed regulatory and administrative techniques designed to remove barriers to the development and placement of affordable housing; and

(f) Specific recommendations, policies, or proposals for meeting the affordable housing needs of the state.

(2)(a) The five-year housing advisory plan required under subsection (1) of this section must be submitted to the legislature on or before February 1, 1994, and subsequent plans must be submitted every five years thereafter.

(b) Each February 1st, beginning February 1, 1995, the department shall submit an annual progress report, to the legislature, detailing the extent to which the state's affordable housing needs were met during the preceding year and recommendations for meeting those needs. [1993 c 478 § 12.]

43.185B.900 Short title. This chapter may be known and cited as the "Washington housing policy act." [1993 c 478 § 24.]

(2022 Ed.)

Chapter 43.185C RCW

HOMELESS HOUSING AND ASSISTANCE

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43.185C.005 Findings. Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons in Washington is unacceptably high. The state's homeless population, furthermore, includes a large number of families with children, youth, and employed persons. The legislature finds that the fiscal and societal costs of homelessness are high for both the public and private sectors, and that ending homelessness should be a goal for state and local government.

The legislature finds that there are many causes of homelessness, including a shortage of affordable housing; a shortage of family-wage jobs which undermines housing affordability; a lack of an accessible and affordable health care system available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; and a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century.

The support and commitment of all sectors of the statewide community is critical to the chances of success in ending homelessness in Washington. While the provision of housing and housing-related services to the homeless should be administered at the local level to best address specific community needs, the legislature also recognizes the need for the state to play a primary coordinating, supporting, and monitoring role. There must be a clear assignment of responsibilities and a clear statement of achievable and quantifiable goals. Systematic statewide data collection on homelessness in Washington must be a critical component of such a program enabling the state to work with local governments to count homeless persons and assist them in finding housing.

The systematic collection and rigorous evaluation of homeless data, a search for and implementation through adequate resource allocation of best practices, and the systematic measurement of progress toward interim goals and the ultimate goal of ending homelessness are all necessary components of a statewide effort to end homelessness in Washington by July 1, 2015. [2005 c 484 § 1.]

43.185C.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center.

(2) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department of children, youth, and families seeking adjudication of placement of the child.

(3) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(4) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(5) "Department" means the department of commerce.

(6) "Director" means the director of the department of commerce.

(7) "Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179 and 36.22.1791, and all other sources directed to the homeless housing and assistance program.

(8) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(9) "Homeless housing plan" means the five-year plan developed by the county or other local government to address housing for homeless persons.

(10) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(11) "Homeless housing strategic plan" means the five-year plan developed by the department, in consultation with the interagency council on homelessness, the affordable housing advisory board, and the state advisory council on homelessness.

(12) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

(13) "HOPE center" means an agency licensed by the secretary of the department of children, youth, and families to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(16) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of children, youth, and families; (d)

the department of veterans affairs; and (e) the department of health.

(17) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(18) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(19) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(20) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(21) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(22) "Semi-secure facility" means any facility including, but not limited to, crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the facility administrator, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(23) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department of children, youth, and families with a ratio of at least one adult staff member to every two children.

(24) "Street outreach services" means a program that provides services and resources either directly or through referral to street youth and unaccompanied young adults as defined in RCW 43.330.702. Services including crisis intervention, emergency supplies, case management, and referrals may be provided through community-based outreach or drop-in centers.

(25) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(26) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations. [2019 c 124 § 2; 2018 c 85 § 8; 2017 c 277 § 2; 2015 c 69 § 10. Prior: 2009 c 565 § 40; 2007 c 427 § 3; 2006 c 349 § 6; 2005 c 484 § 3.]

Intent—Short title—2018 c 85: See notes following RCW 43.185C.045.

Short title—2015 c 69: See RCW 43.330.911.

Finding—2006 c 349: See note following RCW 43.185.130.

43.185C.020 Homeless housing program. There is created within the department the homeless housing program to develop and coordinate a statewide strategic plan aimed at housing homeless persons. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [2005 c 484 § 5.]

43.185C.030 Washington homeless census or count—Confidentiality—Online information and referral system—Organizational quality management system. (1) The department shall annually conduct a Washington homeless census or count consistent with the requirements of RCW 43.185C.180. The census shall make every effort to count all homeless individuals living outdoors, in shelters, and in transitional housing, coordinated, when reasonably feasible, with already existing homeless census projects including those funded in part by the United States department of housing and urban development under the McKinney-Vento homeless assistance program. The department shall determine, in consultation with local governments, the data to be collected. Data on subpopulations and other characteristics of the homeless must, at a minimum, be consistent with the United States department of housing and urban development's point-in-time requirements.

(2) All personal information collected in the census is confidential, and the department and each local government shall take all necessary steps to protect the identity and confidentiality of each person counted.

(3) The department and each local government are prohibited from disclosing any personally identifying information about any homeless individual when there is reason to believe or evidence indicating that the homeless individual is an adult or minor victim of domestic violence, dating violence, sexual assault, or stalking or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking; or revealing other confidential information regarding HIV/AIDS status, as found in RCW 70.02.220. The department and each local government shall not ask any homeless housing provider to disclose personally identifying information about any homeless individuals when the providers implementing those programs have reason to believe or evidence indicating that those clients are adult or minor victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault,

or stalking. Summary data for the provider's facility or program may be substituted.

(4) The Washington homeless census shall be conducted annually on a schedule created by the department. The department shall make summary data by county available to the public each year. This data, and its analysis, shall be included in the department's annual updated homeless housing program strategic plan.

(5) Based on the annual census and provider information from the local government plans, the department shall, by the end of year four, implement an online information and referral system to enable local governments and providers to identify available housing for a homeless person. The department shall work with local governments and their providers to develop a capacity for continuous case management to assist homeless persons.

(6) By the end of year four, the department shall implement an organizational quality management system. [2018 c 85 § 3; 2013 c 200 § 25; 2005 c 484 § 6.]

Intent—Short title—2018 c 85: See notes following RCW 43.185C.045.

Effective date—2013 c 200: See note following RCW 70.02.010.

43.185C.040 Homeless housing strategic plan—Program outcomes and performance measures and goals—Coordination—Statewide data gathering instrument—Reports.

(1) The department shall, in consultation with the interagency council on homelessness, the affordable housing advisory board, and the state advisory council on homelessness, prepare and publish a five-year homeless housing strategic plan which must outline statewide goals and performance measures. The state homeless housing strategic plan must be submitted to the legislature by July 1, 2019, and every five years thereafter. The plan must include:

(a) Performance measures and goals to reduce homelessness, including long-term and short-term goals;

(b) An analysis of the services and programs being offered at the state and county level and an identification of those representing best practices and outcomes;

(c) Recognition of services and programs targeted to certain homeless populations or geographic areas in recognition of the diverse needs across the state;

(d) New or innovative funding, program, or service strategies to pursue;

(e) An analysis of either current drivers of homelessness or improvements to housing security, or both, such as increases and reductions to employment opportunities, housing scarcity and affordability, health and behavioral health services, chemical dependency treatment, and incarceration rates; and

(f) An implementation strategy outlining the roles and responsibilities at the state and local level and timelines to achieve a reduction in homelessness at the statewide level during periods of the five-year homeless housing strategic plan.

(2) The department must coordinate its efforts on the state homeless housing strategic plan with the office of homeless youth prevention and protection programs advisory committee under RCW 43.330.705. The state homeless housing strategic plan must not conflict with the strategies, planning, data collection, and performance and outcome mea-

asures developed under RCW 43.330.705 and 43.330.706 to reduce the state's homeless youth population.

(3) To guide local governments in preparation of local homeless housing plans due December 1, 2019, the department shall issue by December 1, 2018, guidelines consistent with this chapter and including the best available data on each community's homeless population. Program outcomes, performance measures, and goals must be created by the department in collaboration with local governments against which state and local governments' performance will be measured.

(4) The department shall develop a consistent statewide data gathering instrument to monitor the performance of cities and counties receiving grants in order to determine compliance with the terms and conditions set forth in the grant application or required by the department.

The department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, report biennially to the governor and the appropriate committees of the legislature an assessment of the state's performance in furthering the goals of the state five-year homeless housing strategic plan and the performance of each participating local government in creating and executing a local homeless housing plan which meets the requirements of this chapter. To increase the effectiveness of the report, the department must develop a process to ensure consistent presentation, analysis, and explanation in the report, including year-to-year comparisons, highlights of program successes and challenges, and information that supports recommended strategy or operational changes. The report may include performance measures such as:

(a) The reduction in the number of homeless individuals and families from the initial count of homeless persons;

(b) The reduction in the number of unaccompanied homeless youth. "Unaccompanied homeless youth" has the same meaning as in RCW 43.330.702;

(c) The number of new units available and affordable for homeless families by housing type;

(d) The number of homeless individuals identified who are not offered suitable housing within thirty days of their request or identification as homeless;

(e) The number of households at risk of losing housing who maintain it due to a preventive intervention;

(f) The transition time from homelessness to permanent housing;

(g) The cost per person housed at each level of the housing continuum;

(h) The ability to successfully collect data and report performance;

(i) The extent of collaboration and coordination among public bodies, as well as community stakeholders, and the level of community support and participation;

(j) The quality and safety of housing provided; and

(k) The effectiveness of outreach to homeless persons, and their satisfaction with the program. [2018 c 85 § 4; 2017 3rd sp.s. c 15 § 2; 2015 c 69 § 25; 2009 c 518 § 17; 2005 c 484 § 7.]

Intent—Short title—2018 c 85: See notes following RCW 43.185C.045.

Findings—2017 3rd sp.s. c 15: "The legislature finds that a surcharge on documents recorded for the sale or transfer of real property have generated approximately one hundred forty million dollars for homeless programs

in Washington. The legislature further finds that according to a third-party audit of the use of surcharge funds, additional performance measures are needed to effectively measure the success of the state's homeless programs. Therefore, the legislature finds that developing and adopting recommendations to improve performance measures contained in the December 5, 2016, report required under *RCW 43.185C.240(1)(e) will help ensure accountability and transparency of public funds and their effectiveness in reducing homelessness in Washington." [2017 3rd sp.s. c 15 § 1.]

*Reviser's note: RCW 43.185C.240 expired June 30, 2019.

Short title—2015 c 69: See RCW 43.330.911.

43.185C.045 Homeless housing strategic plan—Annual report of department and local governments. (1) By December 1st of each year, the department must provide an update on the state's homeless housing strategic plan and its activities for the prior fiscal year. The report must include, but not be limited to, the following information:

(a) An assessment of the current condition of homelessness in Washington state and the state's performance in meeting the goals in the state homeless housing strategic plan;

(b) A report on the results of the annual homeless point-in-time census conducted statewide under RCW 43.185C.030;

(c) The amount of federal, state, local, and private funds spent on homelessness assistance, categorized by funding source and the following major assistance types:

- (i) Emergency shelter;
- (ii) Homelessness prevention and rapid rehousing;
- (iii) Permanent housing;
- (iv) Permanent supportive housing;
- (v) Transitional housing;
- (vi) Services only; and
- (vii) Any other activity in which more than five hundred thousand dollars of category funds were expended;

(d) A report on the expenditures, performance, and outcomes of state funds distributed through the consolidated homeless grant program, including the grant recipient, award amount expended, use of the funds, counties served, and households served;

(e) A report on state and local homelessness document recording fee expenditure by county, including the total amount of fee spending, percentage of total spending from fees, number of people served by major assistance type, and amount of expenditures for private rental housing payments required in RCW 36.22.179;

(f) A report on the expenditures, performance, and outcomes of the essential needs and housing support program meeting the requirements of RCW 43.185C.220;

(g) A report on the expenditures, performance, and outcomes of the independent youth housing program meeting the requirements of RCW 43.63A.311;

(h) A county-level report on the expenditures, performance, and outcomes of the eviction prevention rental assistance program under RCW 43.185C.185. The report must include, but is not limited to:

- (i) The number of adults without minor children served in each county;
- (ii) The number of households with adults and minor children served in each county; and
- (iii) The number of unaccompanied youth and young adults who are being served in each county; and

(i) A county-level report on the expenditures, performance, and outcomes of the rapid rehousing, project-based vouchers, and housing acquisition programs under RCW 36.22.176. The report must include, but is not limited to:

- (i) The number of persons who are unsheltered receiving shelter through a project-based voucher in each county;
- (ii) The number of units acquired or built via rapid rehousing and housing acquisition in each county; and
- (iii) The number of adults without minor children, households with adults and minor children, unaccompanied youth, and young adults who are being served by the programs under RCW 36.22.176 in each county.

(2) The report required in subsection (1) of this section must be posted to the department's website and may include links to updated or revised information contained in the report.

(3) Any local government receiving state funds for homelessness assistance or state or local homelessness document recording fees under RCW 36.22.178, 36.22.179, or 36.22.1791 must provide an annual report on the current condition of homelessness in its jurisdiction, its performance in meeting the goals in its local homeless housing plan, and any significant changes made to the plan. The annual report must be posted on the department's website. Along with each local government annual report, the department must produce and post information on the local government's homelessness spending from all sources by project during the prior state fiscal year in a format similar to the department's report under subsection (1)(c) of this section. If a local government fails to report or provides an inadequate or incomplete report, the department must take corrective action, which may include withholding state funding for homelessness assistance to the local government to enable the department to use such funds to contract with other public or nonprofit entities to provide homelessness assistance within the jurisdiction. [2021 c 214 § 3; 2018 c 85 § 9.]

Findings—Intent—Department of commerce and William D. Ruckelshaus center examination of homelessness—Reports—2021 c 214: See note following RCW 36.22.176.

Intent—2018 c 85: "The legislature recognizes that all of the people of the state should have the opportunity to live in a safe, healthy, and affordable home. The legislature further recognizes that homelessness in Washington is unacceptable and that action needs to be taken to protect vulnerable households including families with children, youth and young adults, veterans, seniors, and people at high risk of homelessness, including survivors of domestic violence and people living with mental illness and other disabilities.

The legislature recognizes that homelessness has immediate and often times long-term consequences on the educational achievement of public school children and disproportionately impacts students of color. Additionally, the legislature recognizes that the health and safety of people experiencing homelessness is immediately and oftentimes significantly compromised, and that homelessness exacerbates physical and behavioral health disabilities. The legislature further recognizes that homelessness is disproportionately experienced by people of color and LGBTQ youth and young adults. The legislature recognizes that homelessness is also disproportionately experienced by people living with mental illness and that homelessness is an impediment to treatment. The legislature further recognizes that homelessness is disproportionately experienced by Native Americans.

In 2005, the Washington state legislature passed the homeless housing and assistance act that outlined several bold policies to address homelessness. That act also required a strategic plan by the department of commerce, which was first submitted in 2006 and subsequently updated. Since the first statewide plan, the state has succeeded in housing over five hundred fifty-six thousand people experiencing homelessness. These people were previously living in places not meant for human habitation, living in emergency shel-

ters, or at imminent risk of becoming homeless. Although the overall prevalence of homelessness is down more than seventeen percent, the recent increase in homelessness, due in large part to surging housing costs, remains a crisis and more must be done.

Therefore, the legislature intends to improve resources available to aid with increasing access and removing barriers to housing for individuals and families in Washington." [2018 c 85 § 1.]

Short title—2018 c 85: "This act may be known and cited as the Washington housing opportunities act." [2018 c 85 § 11.]

43.185C.050 Local homeless housing plans. (1) Each local homeless housing task force shall prepare and recommend to its local government legislative authority a five-year homeless housing plan for its jurisdictional area, which shall be not inconsistent with the department's statewide guidelines issued by December 1, 2018, and thereafter the department's five-year homeless housing strategic plan, and which shall be aimed at eliminating homelessness. The local government may amend the proposed local plan and shall adopt a plan by December 1, 2019. Performance in meeting the goals of this local plan shall be assessed annually in terms of the performance measures published by the department. Local plans may include specific local performance measures adopted by the local government legislative authority, and may include recommendations for any state legislation needed to meet the state or local plan goals.

(2) Eligible activities under the local plans include:

(a) Rental and furnishing of dwelling units for the use of homeless persons;

(b) Costs of developing affordable housing for homeless persons, and services for formerly homeless individuals and families residing in transitional housing or permanent housing and still at risk of homelessness;

(c) Operating subsidies for transitional housing or permanent housing serving formerly homeless families or individuals;

(d) Services to prevent homelessness, such as emergency eviction prevention programs including temporary rental subsidies to prevent homelessness;

(e) Temporary services to assist persons leaving state institutions and other state programs to prevent them from becoming or remaining homeless;

(f) Outreach services for homeless individuals and families;

(g) Development and management of local homeless plans including homeless census data collection; identification of goals, performance measures, strategies, and costs and evaluation of progress towards established goals;

(h) Rental vouchers payable to landlords for persons who are homeless or below thirty percent of the median income or in immediate danger of becoming homeless; and

(i) Other activities to reduce and prevent homelessness as identified for funding in the local plan. [2018 c 85 § 5; 2005 c 484 § 8.]

Intent—Short title—2018 c 85: See notes following RCW 43.185C.045.

43.185C.060 Home security fund account—Performance metrics—Expenditure review. (1) The home security fund account is created in the state treasury, subject to appropriation. The state's portion of the surcharge established in RCW 36.22.179 and 36.22.1791 and 36.22.176 must be

deposited in the account. Expenditures from the account may be used only for homeless housing programs as described in this chapter, including the eviction prevention rental assistance program established in RCW 43.185C.185.

(2)(a) By December 15, 2021, the department, in consultation with stakeholder groups specified in RCW 43.185C.185(2)(c), must create a set of performance metrics for each county receiving funding under RCW 36.22.176. The metrics must target actions within a county's control that will prevent and reduce homelessness, such as increasing the number of permanent supportive housing units and increasing or maintaining an adequate number of noncongregate shelter beds.

(b)(i) Beginning July 1, 2023, and by July 1st every two years thereafter, the department must award funds for project-based vouchers for nonprofit housing providers and related services, rapid rehousing, and housing acquisition under RCW 36.22.176 to eligible grantees in a manner that 15 percent of funding is distributed as a performance-based allocation based on performance metrics created under (a) of this subsection, in addition to any base allocation of funding for the county.

(ii) Any county that demonstrates that it has met or exceeded the majority of the target actions to prevent and reduce homelessness over the previous two years must receive the remaining 15 percent performance-based allocation. Any county that fails to meet or exceed the majority of target actions to prevent and reduce homelessness must enter into a corrective action plan with the department. To receive its performance-based allocation, a county must agree to undertake the corrective actions outlined in the corrective action plan and any reporting and monitoring deemed necessary by the department. Any county that fails to meet or exceed the majority of targets for two consecutive years after entering into a corrective action plan may be subject to a reduction in the performance-based portion of the funds received in (b)(i) of this subsection, at the discretion of the department in consultation with stakeholder groups specified in RCW 43.185C.185(2)(c). Performance-based allocations unspent due to lack of compliance with a corrective action plan created under this subsection (2)(b) may be distributed to other counties that have met or exceeded their target actions.

(3) The department must distinguish allotments from the account made to carry out the activities in RCW 43.330.167, 43.330.700 through 43.330.715, 43.330.911, 43.185C.010, 43.185C.250 through 43.185C.320, and 36.22.179(1)(b).

(4) The office of financial management must secure an independent expenditure review of state funds received under RCW 36.22.179(1)(b) on a biennial basis. The purpose of the review is to assess the consistency in achieving policy priorities within the private market rental housing segment for housing persons experiencing homelessness. The independent reviewer must notify the department and the office of financial management of its findings. The first biennial expenditure review, for the 2017-2019 fiscal biennium, is due February 1, 2020. Independent reviews conducted thereafter are due February 1st of each even-numbered year.

(5) During the 2019-2021 and 2021-2023 fiscal biennia, expenditures from the account may also be used for shelter capacity grants. [2021 c 334 § 980; 2021 c 214 § 4; 2020 c

357 § 915; 2018 c 85 § 6; 2014 c 200 § 2; 2007 c 427 § 6; 2005 c 484 § 10.]

Reviser's note: This section was amended by 2021 c 214 § 4 and by 2021 c 334 § 980, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Findings—Intent—Department of commerce and William D. Ruckelshaus center examination of homelessness—Reports—2021 c 214: See note following RCW 36.22.176.

Effective date—2020 c 357: See note following RCW 43.79.545.

Intent—Short title—2018 c 85: See notes following RCW 43.185C.045.

43.185C.061 Home security fund account—Exemptions from set aside. Home security fund account funds appropriated to carry out the activities of RCW 43.330.700 through 43.330.715, 43.330.911, 43.185C.010, 43.185C.250 through 43.185C.320, and 43.330.167 are not subject to the set aside under RCW 36.22.179(1)(b). [2015 c 69 § 27.]

Short title—2015 c 69: See RCW 43.330.911.

43.185C.070 Grant applications. (1) During each calendar year in which moneys from the *homeless housing account are available for use by the department for the homeless housing grant program, the department shall announce to all Washington counties, participating cities, and through major media throughout the state, a grant application period of at least ninety days' duration. This announcement will be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds, less appropriate administrative costs of the department as described in RCW 36.22.179.

(2) The department will develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, criteria to evaluate grant applications.

(3) The department may approve applications only if they are consistent with the local and state homeless housing program strategic plans. The department may give preference to applications based on some or all of the following criteria:

(a) The total homeless population in the applicant local government service area, as reported by the most recent annual Washington homeless census;

(b) Current local expenditures to provide housing for the homeless and to address the underlying causes of homelessness as described in RCW 43.185C.005;

(c) Local government and private contributions pledged to the program in the form of matching funds, property, infrastructure improvements, and other contributions; and the degree of leveraging of other funds from local government or private sources for the program for which funds are being requested, to include recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Construction projects or rehabilitation that will serve homeless individuals or families for a period of at least twenty-five years;

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(e) Projects which demonstrate serving homeless populations with the greatest needs, including projects that serve special needs populations;

(f) The degree to which the applicant project represents a collaboration between local governments, nonprofit community-based organizations, local and state agencies, and the private sector, especially through its integration with the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650;

(g) The cooperation of the local government in the annual Washington homeless census project;

(h) The commitment of the local government and any subcontracting local governments, nonprofit organizations, and for-profit entities to employ a diverse workforce;

(i) The extent, if any, that the local homeless population is disproportionate to the revenues collected under this chapter and RCW 36.22.178 and 36.22.179; and

(j) Other elements shown by the applicant to be directly related to the goal and the department's state strategic plan. [2005 c 484 § 11.]

***Reviser's note:** The "homeless housing account" was changed to the "home security fund account" by 2007 c 427 § 6.

43.185C.080 Homeless housing grants—Participation. (1) Only a local government is eligible to receive a homeless housing grant from the *homeless housing account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under RCW 36.22.179 equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.

(2) Local governments applying for homeless housing funds may subcontract with any other local government, housing authority, community action agency or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts shall be consistent with the local homeless housing plan adopted by the legislative authority of the local government, time limited, and filed with the department and shall have specific performance terms. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

(3) A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall

also be transmitted to the county auditor and treasurer. If such a resolution is adopted, all of the funds otherwise due to the county under RCW 43.185C.060 shall be remitted monthly to the state treasurer for deposit in the *homeless housing account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local homeless housing plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county under this subsection to carry out the purposes of chapter 484, Laws of 2005 in the county, provided that the department may retain six percent of these funds to offset the cost of managing the county's program.

(4) A resolution by the county declining to participate in the program shall have no effect on the ability of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to the city the funds due under this chapter. [2005 c 484 § 12.]

*Reviser's note: The "homeless housing account" was changed to the "home security fund account" by 2007 c 427 § 6.

43.185C.090 Allocation of grant moneys—Issuance of criteria or guidelines. The department shall allocate grant moneys from the *homeless housing account to finance in whole or in part programs and projects in approved local homeless housing plans to assist homeless individuals and families gain access to adequate housing, prevent at-risk individuals from becoming homeless, address the root causes of homelessness, track and report on homeless-related data, and facilitate the movement of homeless or formerly homeless individuals along the housing continuum toward more stable and independent housing. The department may issue criteria or guidelines to guide local governments in the application process. [2005 c 484 § 13.]

*Reviser's note: The "homeless housing account" was changed to the "home security fund account" by 2007 c 427 § 6.

43.185C.100 Technical assistance. The department shall provide technical assistance to any participating local government that requests such assistance. Technical assistance activities may include:

- (1) Assisting local governments to identify appropriate parties to participate on local homeless housing task forces;
- (2) Assisting local governments to identify appropriate service providers with which the local governments may subcontract for service provision and development activities, when necessary;
- (3) Assisting local governments to implement or expand homeless census programs to meet homeless housing program requirements;
- (4) Assisting in the identification of "best practices" from other areas;
- (5) Assisting in identifying additional funding sources for specific projects; and
- (6) Training local government and subcontractor staff. [2005 c 484 § 14.]

43.185C.110 Progress reports—Uniform process. The department shall establish a uniform process for partici-

pating local governments to report progress toward reducing homelessness and meeting locally established goals. [2005 c 484 § 15.]

43.185C.120 Rules. The department may adopt such rules as may be necessary to effect the purposes of this chapter. [2005 c 484 § 16.]

43.185C.130 Protection of state's interest in grant program projects. The department shall ensure that the state's interest is protected upon the development, use, sale, or change of use of projects constructed, acquired, or financed in whole or in part through the homeless housing grant program. These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project, or (2) requiring a lump sum repayment of the grant upon the sale or change of use of the project. [2005 c 484 § 17.]

43.185C.140 Public assistance eligibility—Payments exempt. The department of social and health services shall exempt payments to individuals provided under this chapter when determining eligibility for public assistance. [2005 c 484 § 20.]

43.185C.150 Expenditures within authorized funds—Existing expenditures not reduced or supplanted. This chapter does not require either the department or any local government to expend any funds to accomplish the goals of this chapter other than the revenues authorized in chapter 484, Laws of 2005. However, neither the department nor any local government may use any funds authorized in chapter 484, Laws of 2005 to supplant or reduce any existing expenditures of public money for the reduction or prevention of homelessness or services for homeless persons. [2005 c 484 § 21.]

43.185C.160 County homeless housing task forces—Homeless housing plans—Reports by counties. (1) Each county shall create a homeless housing task force to develop a five-year homeless housing plan addressing short-term and long-term housing for homeless persons.

Membership on the task force may include representatives of the counties, cities, towns, housing authorities, civic and faith organizations, schools, community networks, human services providers, law enforcement personnel, criminal justice personnel, including prosecutors, probation officers, and jail administrators, substance abuse treatment providers, mental health care providers, emergency health care providers, businesses, real estate professionals, at large representatives of the community, and a homeless or formerly homeless individual.

In lieu of creating a new task force, a local government may designate an existing governmental or nonprofit body which substantially conforms to this section and which includes at least one homeless or formerly homeless individual to serve as its homeless representative. As an alternative to a separate plan, two or more local governments may work in concert to develop and execute a joint homeless housing plan, or to contract with another entity to do so according to the requirements of this chapter. While a local government

has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the homeless housing program within its borders.

A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If a county declines to participate, the department shall create and execute a local homeless housing plan for the county meeting the requirements of this chapter.

(2) In addition to developing a five-year homeless housing plan, each task force shall establish guidelines consistent with the statewide homeless housing strategic plan, as needed, for the following:

- (a) Emergency shelters;
- (b) Short-term housing needs;
- (c) Temporary encampments;
- (d) Supportive housing for chronically homeless persons; and
- (e) Long-term housing.

Guidelines must include, when appropriate, standards for health and safety and notifying the public of proposed facilities to house the homeless.

(3) Each county, including counties exempted from creating a new task force under subsection (1) of this section, shall report to the department such information as may be needed to ensure compliance with this chapter, including the annual report required in RCW 43.185C.045. [2018 c 85 § 7; 2005 c 485 § 1.]

Intent—Short title—2018 c 85: See notes following RCW 43.185C.045.

43.185C.170 Interagency council on homelessness—Duties—Reports. (1) The interagency council on homelessness, as defined in RCW 43.185C.010, shall be convened not later than August 31, 2006, and shall meet at least two times each year and report to the appropriate committees of the legislature annually by December 31st on its activities.

(2) The interagency council on homelessness shall work to create greater levels of interagency coordination and to coordinate state agency efforts with the efforts of state and local entities addressing homelessness.

(3) The interagency council shall seek to:

- (a) Align homeless-related housing and supportive service policies among state agencies;
- (b) Identify ways in which providing housing with appropriate services can contribute to cost savings for state agencies;
- (c) Identify policies and actions that may contribute to homelessness or interfere with its reduction;
- (d) Review and improve strategies for discharge from state institutions that contribute to homelessness;
- (e) Recommend policies to either improve practices or align resources, or both, including those policies requested by the affordable housing advisory board or through state and local housing plans; and
- (f) Ensure that the housing status of people served by state programs is collected in consistent formats available for analysis. [2006 c 349 § 7.]

Finding—2006 c 349: See note following RCW 43.185.130.

43.185C.180 Washington homeless client management information system. (1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement the Washington homeless client management information system for the ongoing collection and updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families.

(a) Personally identifying information about homeless individuals for the Washington homeless client management information system may only be collected after having obtained informed, reasonably time limited (i) written consent from the homeless individual to whom the information relates, or (ii) telephonic consent from the homeless individual, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. Safeguards consistent with federal requirements on data collection must be in place to protect homeless individuals' rights regarding their personally identifying information.

(b) Data collection under this subsection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals receive:

- (i) Information about the expected duration of their participation in the Washington homeless client management information system;
- (ii) An explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information;
- (iii) An explanation regarding whom to contact in the event of injury to the individual related to the Washington homeless client management information system;
- (iv) A description of any reasonably foreseeable risks to the homeless individual; and
- (v) A statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(c) The department must adopt policies governing the appropriate process for destroying Washington homeless client management information system paper documents containing personally identifying information when the paper documents are no longer needed. The policies must not conflict with any federal data requirements.

(d) Any unaccompanied youth thirteen years of age or older may give consent for the collection of his or her personally identifying information under this section. "Unaccompanied" has the same definition as in RCW 43.330.702.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the database with available housing and other support services. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

(a) Protect the right of privacy of individuals;

(b) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and

(c) Include related information held or gathered by other state agencies.

(6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually. [2018 c 15 § 1; 2011 c 239 § 1; 2006 c 349 § 8; 1999 c 267 § 4. Formerly RCW 43.63A.655.]

Finding—2006 c 349: See note following RCW 43.185.130.

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.185C.185 Eviction prevention rental assistance program. (1) The eviction prevention rental assistance program is created in the department to prevent evictions by providing resources to households most likely to become homeless or suffer severe health consequences, or both, after an eviction, while promoting equity by prioritizing households, including communities of color, disproportionately impacted by public health emergencies and by homelessness and housing instability. The department must provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, including rental arrears and future rent if needed to stabilize the applicant's housing and prevent their eviction;

(b) Utility assistance for households if needed to prevent an eviction; and

(c) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Households eligible to receive assistance through the eviction prevention rental assistance program are those:

(a) With incomes at or below 80 percent of the county area median income;

(b) Who are families with children, living in doubled up situations, young adults, senior citizens, and others at risk of homelessness or significant physical or behavioral health complications from homelessness; and

(c) That meet any other eligibility requirements as established by the department after consultation with stakeholder groups, including persons at risk of homelessness due to unpaid rent, representatives of communities of color, home-

less service providers, landlord representatives, local governments that administer homelessness assistance, a statewide association representing cities, a statewide association representing counties, a representative of homeless youth and young adults, and affordable housing advocates.

(3) A landlord may assist an eligible household in applying for assistance through the eviction prevention rental assistance program or may apply for assistance on an eligible household's behalf.

(4)(a) Eligible grantees must actively work with organizations rooted in communities of color to assist and serve marginalized populations within their communities.

(b) At least 10 percent of the grant total must be subgranted to organizations that serve and are substantially governed by marginalized populations to pay the costs associated with program outreach, assistance completing applications for assistance, rent assistance payments, activities that directly support the goal of improving access to rent assistance for people of color, and related costs. Upon request by an eligible grantee or the county or city in which it exists, the department must provide a list of organizations that serve and are substantially governed by marginalized populations, if known.

(c) An eligible grantee may request an exemption from the department from the requirements under (b) of this subsection. The department must consult with the stakeholder group established under subsection (2)(c) of this section before granting an exemption. An eligible grantee may request an exemption only if the eligible grantee:

(i) Is unable to subgrant with an organization that serves and is substantially governed by marginalized populations; or

(ii) Provides the department with a plan to spend 10 percent of the grant total in a manner that the department determines will improve racial equity for historically underserved communities more effectively than a subgrant.

(5) The department must ensure equity by developing performance measures and benchmarks that promote both equitable program access and equitable program outcomes. Performance measures and benchmarks must be developed by the department in consultation with stakeholder groups, including persons at risk of homelessness due to unpaid rent, representatives of communities of color, homeless service providers, landlord representatives, local governments that administer homelessness assistance, a statewide association representing cities, a statewide association representing counties, a representative of homeless youth and young adults, and affordable housing advocates. Performance measures and benchmarks must also ensure that the race and ethnicity of households served under the program are proportional to the numbers of people at risk of homelessness in each county for each of the following groups:

(a) Black or African American;

(b) American Indian and Alaska Native;

(c) Native Hawaiian or other Pacific Islander;

(d) Hispanic or Latinx;

(e) Asian;

(f) Other multiracial.

(6) The department may develop additional rules, requirements, procedures, and guidelines as necessary to implement and operate the eviction prevention rental assistance program.

(7)(a) The department must award funds under this section to eligible grantees in a manner that is proportional to the amount of revenue collected under RCW 36.22.176 from the county being served by the grantee.

(b) The department must provide counties with the right of first refusal to receive grant funds distributed under this subsection. If a county refuses the funds or does not respond within a time frame established by the department, the department must identify an alternative grantee. The alternative grantee must distribute the funds in a manner that is in compliance with this chapter. [2021 c 214 § 2.]

Findings—Intent—Department of commerce and William D. Ruckelshaus center examination of homelessness—Reports—2021 c 214: See note following RCW 36.22.176.

43.185C.190 Affordable housing for all account. The affordable housing for all account is created in the state treasury, subject to appropriation. The state's portion of the surcharges established in RCW 36.22.178 and 36.22.176 shall be deposited in the account. Expenditures from the account may only be used for affordable housing programs, including operations, maintenance, and services as described in RCW 36.22.176(1)(a). During the 2021-2023 fiscal biennium, expenditures from the account may be used for operations, maintenance, and services for permanent supportive housing as defined in RCW 36.70A.030. It is the intent of the legislature to continue this policy in future biennia. [2021 c 334 § 981; 2021 c 214 § 5; 2011 1st sp.s. c 50 § 955; 2007 c 427 § 2.]

Reviser's note: This section was amended by 2021 c 214 § 5 and by 2021 c 334 § 981, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Findings—Intent—Department of commerce and William D. Ruckelshaus center examination of homelessness—Reports—2021 c 214: See note following RCW 36.22.176.

Additional notes found at www.leg.wa.gov

43.185C.200 Transitional housing assistance to offenders—Pilot program. (1) *The department of community, trade, and economic development shall establish a pilot program to provide grants to eligible organizations, as described in RCW 43.185.060, to provide transitional housing assistance to offenders who are reentering the community and are in need of housing.

(2) There shall be a minimum of two pilot programs established in two counties. The pilot programs shall be selected through a request for proposal process and in consultation with the department of corrections. The department shall select the pilot sites by January 1, 2008.

(3) The pilot program shall:

(a) Be operated in collaboration with the community justice center existing in the location of the pilot site;

(b) Offer transitional supportive housing that includes individual support and mentoring available on an ongoing basis, life skills training, and close working relationships with community justice centers and community corrections officers. Supportive housing services can be provided directly by the housing operator, or in partnership with community-based organizations;

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(c) In providing assistance, give priority to offenders who are designated as high risk or high needs as well as those determined not to have a viable release plan by the department of corrections;

(d) Optimize available funding by utilizing cost-effective community-based shared housing arrangements or other noninstitutional living arrangements; and

(e) Provide housing assistance for a period of time not to exceed twelve months for a participating offender.

(4) The department may also use up to twenty percent of the funding appropriated in the operating budget for this section to support the development of additional supportive housing resources for offenders who are reentering the community.

(5) The department shall:

(a) Collaborate with the department of corrections in developing criteria to determine who will qualify for housing assistance; and

(b) Gather data, and report to the legislature by November 1, 2008, on the number of offenders seeking housing, the number of offenders eligible for housing, the number of offenders who receive the housing, and the number of offenders who commit new crimes while residing in the housing to the extent information is available.

(6) The department of corrections shall collaborate with organizations receiving grant funds to:

(a) Help identify appropriate housing solutions in the community for offenders;

(b) Where possible, facilitate an offender's application for housing prior to discharge;

(c) Identify enhancements to training provided to offenders prior to discharge that may assist an offender in effectively transitioning to the community;

(d) Maintain communication between the organization receiving grant funds, the housing provider, and corrections staff supervising the offender; and

(e) Assist the offender in accessing resources and services available through the department of corrections and a community justice center.

(7) The state, *department of community, trade, and economic development, department of corrections, local governments, local housing authorities, eligible organizations as described in RCW 43.185.060, and their employees are not liable for civil damages arising from the criminal conduct of an offender solely due to the placement of an offender in housing provided under this section or the provision of housing assistance.

(8) Nothing in this section allows placement of an offender into housing without an analysis of the risk the offender may pose to that particular community or other residents. [2007 c 483 § 604.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Finding—Intent—2007 c 483: See note following RCW 35.82.340.

Findings—2007 c 483: See RCW 72.78.005.

43.185C.210 Transitional housing operating and rent program. (1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable

housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(6) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to sup-

port: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program. [2020 c 155 § 1; 2011 c 353 § 6; 2008 c 256 § 1.]

Intent—2011 c 353: See note following RCW 36.70A.130.

43.185C.215 Transitional housing operating and rent account. The transitional housing operating and rent account is created in the custody of the state treasurer. All receipts from sources directed to the transitional housing operating and rent program must be deposited into the account. Expenditures from the account may be used solely for the purpose of the transitional housing operating and rent program as described in RCW 43.185C.210. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2008 c 256 § 2.]

43.185C.220 Essential needs and housing support program—Distribution of funds. (1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section and the biennial operating budget. The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is only for persons found eligible for such services under RCW 74.04.805 and is not considered an entitlement.

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount of funds to be distributed pursuant to this section shall be designated in the biennial operating budget. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3)(a) During the 2011-2013 biennium, in awarding housing support that is not funded through the contingency fund in this subsection, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010. As provided in the biennial operating budget for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at substantial risk of losing stable housing or at substantial risk of losing one of the other services defined in RCW 74.62.010(6). For purposes of this chapter, "substantial risk"

means the client has provided documentation that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.

(b) After July 1, 2013, the designated housing support entity shall give first priority to clients who are homeless persons as defined in RCW 43.185C.010 and second priority to clients who would be at substantial risk of losing stable housing without housing support.

(4) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to medical care services program recipients on November 1, 2011. Essential needs and housing support entities are not required to provide assistance to every person referred to the local entity or who meets the priority standards in subsection (3) of this section.

(a) Each designated entity must be a local government or community-based organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.

(5)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section.

(b) Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.

(c) The department may move funds between entities or between counties to reflect actual caseload changes. In doing so, the department must: (i) Develop a process for reviewing the caseload of designated essential needs and housing support entities, and for redistributing grant funds from those entities experiencing reduced actual caseloads to those with increased actual caseloads; and (ii) inform all designated entities of the redistribution process. Savings resulting from program caseload attrition from the essential needs and housing support program shall not result in increased per-client expenditures.

(d) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the operating budget for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

(6) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. Each essential needs and housing

support entity shall use no more than seven percent of the funds for administrative expenses.

(7) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of chapter 36, Laws of 2011 1st sp. sess.;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals who have requested housing support but did not receive housing support;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources or public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

(8) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations. [2015 c 128 § 5; 2013 2nd sp.s. c 10 § 4; 2011 1st sp.s. c 36 § 4.]

Effective date—2013 2nd sp.s. c 10: See note following RCW 74.62.030.

Findings—Intent—2011 1st sp.s. c 36: See RCW 74.62.005.

Additional notes found at www.leg.wa.gov

43.185C.230 Verification of eligibility—Medical care services. The department, in collaboration with the department of social and health services, shall:

(1) Develop a mechanism through which the department and local governments or community-based organizations can verify a person has been determined eligible by the department of social and health services and remains eligible for the essential needs and housing support program; and

(2) Provide a secure and current list of individuals eligible for the essential needs and housing support program to designated entities within each county. The list must be updated at least monthly and include, as available and applicable, the eligible individual's:

- (a) Name;
- (b) Address;
- (c) Phone number;
- (d) Shelter location; and

(e) Case manager contact information. [2018 c 48 § 3; 2013 2nd sp.s. c 10 § 5; 2011 1st sp.s. c 36 § 5.]

Effective date—2013 2nd sp.s. c 10: See note following RCW 74.62.030.

Findings—Intent—2011 1st sp.s. c 36: See RCW 74.62.005.

Additional notes found at www.leg.wa.gov

43.185C.250 Youth services—Duties of crisis residential center administrator and department—Multidisciplinary team. (1)(a) The administrator of a crisis residential center may convene a multidisciplinary team, which is to be locally based and administered, at the request of a child placed at the center or the child's parent.

(b) If the administrator has reasonable cause to believe that a child is a child in need of services and the parent is unavailable or unwilling to continue efforts to maintain the family structure, the administrator shall immediately convene a multidisciplinary team.

(c) A parent may disband a team twenty-four hours, excluding weekends and holidays, after receiving notice of formation of the team under (b) of this subsection unless a petition has been filed under RCW 13.32A.140. If a petition has been filed the parent may not disband the team until the hearing is held under RCW 13.32A.179. The court may allow the team to continue if an out-of-home placement is ordered under RCW 13.32A.179(3). Upon the filing of an at-risk youth or dependency petition the team shall cease to exist, unless the parent requests continuation of the team or unless the out-of-home placement was ordered under RCW 13.32A.179(3).

(2) The department shall request participation of appropriate state agencies to assist in the coordination and delivery of services through the multidisciplinary teams. Those agencies that agree to participate shall provide the director or the director's designee all information necessary to facilitate forming a multidisciplinary team and the director or the director's designee shall provide this information to the administrator of each crisis residential center.

(3) The administrator shall also seek participation from representatives of mental health and drug and alcohol treatment providers as appropriate.

(4) A parent shall be advised of the request to form a multidisciplinary team and may select additional members of the multidisciplinary team. The parent or child may request any person or persons to participate including, but not limited to, educators, law enforcement personnel, court personnel, family therapists, licensed health care practitioners, social service providers, youth residential placement providers, other family members, church representatives, and members of their own community. The administrator shall assist in obtaining the prompt participation of persons requested by the parent or child.

(5) When an administrator of a crisis residential center requests the formation of a team, the state agencies must respond as soon as possible. [2017 c 277 § 3; 2015 c 69 § 11; 2000 c 123 § 4; 1995 c 312 § 13. Formerly RCW 13.32A.042.]

Short title—2015 c 69: See RCW 43.330.911.

Additional notes found at www.leg.wa.gov

43.185C.255 Youth services—Multidisciplinary team—Duties. (1) The purpose of the multidisciplinary team is to assist in a coordinated referral of the family to available social and health-related services.

(2) The team shall have the authority to evaluate the juvenile, and family members, if appropriate and agreed to by the parent, and shall:

(a) With parental input, develop a plan of appropriate available services and assist the family in obtaining those services;

(b) Make a referral to the designated crisis responder, if appropriate;

(c) Recommend no further intervention because the juvenile and his or her family have resolved the problem causing the family conflict; or

(d) With the parent's consent, work with them to achieve reconciliation of the child and family.

(3) At the first meeting of the multidisciplinary team, it shall choose a member to coordinate the team's efforts. The parent member of the multidisciplinary team must agree with the choice of coordinator. The team shall meet or communicate as often as necessary to assist the family.

(4) The coordinator of the multidisciplinary team may assist in filing a child in need of services petition when requested by the parent or child or an at-risk youth petition when requested by the parent. The multidisciplinary team shall have no standing as a party in any action under this title.

(5) If the administrator is unable to contact the child's parent, the multidisciplinary team may be used for assistance. If the parent has not been contacted within five days the administrator shall contact the department of social and health services and request the case be reviewed for a dependency filing under chapter 13.34 RCW. [2016 sp.s. c 29 § 413; 2015 c 69 § 12; 2000 c 123 § 5; 1995 c 312 § 14. Formerly RCW 13.32A.044.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Short title—2015 c 69: See RCW 43.330.911.

Additional notes found at www.leg.wa.gov

43.185C.260 Youth services—Officer taking child into custody—Authorization—Duration of custody—Transporting—Report on suspected abuse or neglect. (1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement.

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) If a law enforcement officer takes a juvenile into custody pursuant to subsection (1)(b) of this section and reasonably believes that the juvenile may be the victim of sexual exploitation, the officer shall:

(a) Transport the child to:

(i) An evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in RCW 7.68.380, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment; or

(ii) Another appropriate youth-serving entity or organization including, but not limited to:

(A) A HOPE Center as defined under RCW 43.185C.010;

(B) A foster family home as defined under RCW 74.15.020;

(C) A crisis residential center as defined under RCW 43.185C.010; or

(D) A community-based program that has expertise working with adolescents in crisis; or

(b) Coordinate transportation to one of the locations identified in (a) of this subsection, with a liaison dedicated to

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serving commercially sexually exploited children established under RCW 74.14B.070 or a community service provider.

(8) Law enforcement shall have the authority to take into protective custody a child who is or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individual or individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in RCW 7.68.380, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment.

(9) No child may be placed in a secure facility except as provided in this chapter. [2020 c 331 § 8; 2019 c 312 § 15; 2018 c 58 § 61; 2017 c 277 § 4; 2015 c 69 § 13; 2000 c 123 § 6; 1997 c 146 § 2; 1996 c 133 § 10; 1995 c 312 § 6; 1994 sp.s. c 7 § 505; 1990 c 276 § 5; 1986 c 288 § 1; 1985 c 257 § 7; 1981 c 298 § 2; 1979 c 155 § 19. Formerly RCW 13.32A.050.]

Finding—2020 c 331: See note following RCW 7.68.380.

Effective date—Findings—Intent—2019 c 312: See notes following RCW 7.21.080.

Effective date—2018 c 58: See note following RCW 28A.655.080.

Short title—2015 c 69: See RCW 43.330.911.

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

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Intent—1990 c 276: See RCW 13.32A.015.

Additional notes found at www.leg.wa.gov

43.185C.265 Youth services—Officer taking child into custody—Procedure—Transporting to home, crisis residential center, custody of department of social and health services, or juvenile detention facility. (1) An officer taking a child into custody under RCW 43.185C.260(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of children, youth, and families, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to

believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of children, youth, and families to accept custody of the child. If the department of children, youth, and families determines that an appropriate placement is currently available, the department of children, youth, and families shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of children, youth, and families may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department of children, youth, and families' custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of children, youth, and families declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of children, youth, and families if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 43.185C.260(1)(c) shall inform the child of the reason for custody. An officer taking a child into custody under RCW 43.185C.260(1)(c) may release the child to the supervising agency, may return the child to the placement authorized by the supervising agency, or shall take the child to a designated crisis residential center.

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 43.185C.290(6).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of children, youth, and families, the child may reside in the crisis residential center or may be placed by the department of children, youth, and families in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of children, youth, and families shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 43.185C.260 may be taken. [2019 c 312 § 16; 2015 c 69 § 14. Prior: 2000 c 162 § 11; 2000 c 162 § 1; 2000 c 123 § 7; 1997 c 146 § 3; 1996 c 133 § 11; 1995 c 312 § 7; 1994 sp.s. c 7 § 506; 1985 c

257 § 8; 1981 c 298 § 3; 1979 c 155 § 20. Formerly RCW 13.32A.060.]

Effective date—Findings—Intent—2019 c 312: See notes following RCW 7.21.080.

Short title—2015 c 69: See RCW 43.330.911.

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

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Additional notes found at www.leg.wa.gov

43.185C.275 Youth services—Immunity from liability for law enforcement officer and person with whom child is placed. (1) A law enforcement officer acting in good faith pursuant to this chapter is immune from civil or criminal liability for such action.

(2) A person with whom a child is placed pursuant to this chapter and who acts reasonably and in good faith is immune from civil or criminal liability for the act of receiving the child. The immunity does not release the person from liability under any other law. [1996 c 133 § 13; 1995 c 312 § 8; 1986 c 288 § 2; 1981 c 298 § 5; 1979 c 155 § 21. Formerly RCW 13.32A.070.]

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

Additional notes found at www.leg.wa.gov

43.185C.280 Youth services—Duty to inform parents—Transportation to child's home or out-of-home placement—Notice to department of social and health services. (1) The administrator of a designated crisis residential center shall perform the duties under subsection (3) of this section:

(a) Upon admitting a child who has been brought to the center by a law enforcement officer under RCW 43.185C.265;

(b) Upon admitting a child who has run away from home or has requested admittance to the center;

(c) Upon learning from a person under RCW 13.32A.082 that the person is providing shelter to a child absent from home; or

(d) Upon learning that a child has been placed with a responsible adult pursuant to RCW 43.185C.265.

(2) Transportation expenses of the child shall be at the parent's expense to the extent of his or her ability to pay, with any unmet transportation expenses assumed by the crisis residential center.

(3) When any of the circumstances under subsection (1) of this section are present, the administrator of a center shall perform the following duties:

(a) Immediately notify the child's parent of the child's whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement;

(b) Initially notify the parent that it is the paramount concern of the family reconciliation service personnel to achieve a reconciliation between the parent and child to reunify the family and inform the parent as to the procedures to be followed under this chapter;

(c) Inform the parent whether a referral to children's protective services has been made and, if so, inform the parent of

the standard pursuant to RCW 26.44.020(1) governing child abuse and neglect in this state; and either

(d)(i) Arrange transportation for the child to the residence of the parent, as soon as practicable, when the child and his or her parent agrees to the child's return home or when the parent produces a copy of a court order entered under this chapter requiring the child to reside in the parent's home; or

(ii) Arrange transportation for the child to: (A) An out-of-home placement which may include a licensed group care facility or foster family when agreed to by the child and parent; or (B) a certified or licensed mental health or chemical dependency program of the parent's choice.

(4) If the administrator of the crisis residential center performs the duties listed in subsection (3) of this section, he or she shall also notify the department of social and health services that a child has been admitted to the crisis residential center. [2015 c 69 § 16; 2000 c 123 § 11; 1996 c 133 § 7; 1995 c 312 § 10; 1990 c 276 § 6; 1981 c 298 § 7; 1979 c 155 § 23. Formerly RCW 13.32A.090.]

Short title—2015 c 69: See RCW 43.330.911.

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

Intent—1990 c 276: See RCW 13.32A.015.

Additional notes found at www.leg.wa.gov

43.185C.285 Youth services—Unauthorized leave from crisis residential center—Notice to parents, law enforcement, and the department of children, youth, and families. The administrator of a crisis residential center shall notify parents and the appropriate law enforcement agency as to any unauthorized leave from the center by a child placed at the center. The administrator shall also notify the department of children, youth, and families immediately as to any unauthorized leave from the center by a child who is in the care of or receiving services from the department of children, youth, and families. [2018 c 58 § 60; 2017 c 277 § 5; 2015 c 69 § 17; 2000 c 123 § 12; 1996 c 133 § 15; 1995 c 312 § 21. Formerly RCW 13.32A.095.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Short title—2015 c 69: See RCW 43.330.911.

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

Additional notes found at www.leg.wa.gov

43.185C.290 Youth services—Child admitted to secure facility—Maximum hours of custody—Evaluation for semi-secure facility or release to department of social and health services—Parental right to remove child—Reconciliation effort—Information to parent and child—Written statement of services and rights—Crisis residential center immunity from liability. (1) A child admitted to a secure facility located in a juvenile detention center shall remain in the facility for at least twenty-four hours after admission but for not more than five consecutive days. A child admitted to a secure facility not located in a juvenile detention center or a semi-secure facility may remain for not more than fifteen consecutive days. If a child is transferred between a secure and semi-secure facility, the aggregate length of time a child may remain in both facilities shall not exceed fifteen consecutive days per admission, and in no

event may a child's stay in a secure facility located in a juvenile detention center exceed five days per admission.

(2)(a)(i) The facility administrator shall determine within twenty-four hours after a child's admission to a secure facility whether the child is likely to remain in a semi-secure facility and may transfer the child to a semi-secure facility or release the child to the department of social and health services. The determination shall be based on: (A) The need for continued assessment, protection, and treatment of the child in a secure facility; and (B) the likelihood the child would remain at a semi-secure facility until his or her parents can take the child home or a petition can be filed under this title.

(ii) In making the determination the administrator shall consider the following information if known: (A) The child's age and maturity; (B) the child's condition upon arrival at the center; (C) the circumstances that led to the child's being taken to the center; (D) whether the child's behavior endangers the health, safety, or welfare of the child or any other person; (E) the child's history of running away; and (F) the child's willingness to cooperate in the assessment.

(b) If the administrator of a secure facility determines the child is unlikely to remain in a semi-secure facility, the administrator shall keep the child in the secure facility pursuant to this chapter and in order to provide for space for the child may transfer another child who has been in the facility for at least seventy-two hours to a semi-secure facility. The administrator shall only make a transfer of a child after determining that the child who may be transferred is likely to remain at the semi-secure facility.

(c) A crisis residential center administrator is authorized to transfer a child to a crisis residential center in the area where the child's parents reside or where the child's lawfully prescribed residence is located.

(d) An administrator may transfer a child from a semi-secure facility to a secure facility whenever he or she reasonably believes that the child is likely to leave the semi-secure facility and not return and after full consideration of all factors in (a)(i) and (ii) of this subsection.

(3) If no parent is available or willing to remove the child during the first seventy-two hours following admission, the department of social and health services shall consider the filing of a petition under RCW 13.32A.140.

(4) Notwithstanding the provisions of subsection (1) of this section, the parents may remove the child at any time unless the staff of the crisis residential center has reasonable cause to believe that the child is absent from the home because he or she is abused or neglected or if allegations of abuse or neglect have been made against the parents. The department of social and health services or any agency legally charged with the supervision of a child may remove a child from a crisis residential center at any time after the first twenty-four hour period after admission has elapsed and only after full consideration by all parties of the factors in subsection (2)(a) of this section.

(5) Crisis residential center staff shall make reasonable efforts to protect the child and achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours from the time of admission, and if the administrator of the center does not consider it likely that reconciliation will be achieved within five days of the child's admission to the center, then the

administrator shall inform the parent and child of: (a) The availability of counseling services; (b) the right to file a child in need of services petition for an out-of-home placement, the right of a parent to file an at-risk youth petition, and the right of the parent and child to obtain assistance in filing the petition; (c) the right to request the facility administrator or his or her designee to form a multidisciplinary team; (d) the right to request a review of any out-of-home placement; (e) the right to request a mental health or chemical dependency evaluation by a county-designated professional or a private treatment facility; and (f) the right to request treatment in a program to address the child's at-risk behavior under RCW 13.32A.197.

(6) At no time shall information regarding a parent's or child's rights be withheld. The department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating the services and rights. The administrator of the facility or his or her designee shall provide every resident and parent with a copy of the statement.

(7) A crisis residential center and any person employed at the center acting in good faith in carrying out the provisions of this section are immune from criminal or civil liability for such actions. [2015 c 69 § 18; 2009 c 569 § 1. Prior: 2000 c 162 § 13; 2000 c 162 § 3; 2000 c 123 § 15; 1997 c 146 § 4; 1996 c 133 § 8; 1995 c 312 § 12; 1994 sp.s. c 7 § 508; 1992 c 205 § 206; 1990 c 276 § 8; 1985 c 257 § 9; 1981 c 298 § 9; 1979 c 155 § 27. Formerly RCW 13.32A.130.]

Short title—2015 c 69: See RCW 43.330.911.

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

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Intent—1990 c 276: See RCW 13.32A.015.

Additional notes found at www.leg.wa.gov

43.185C.295 Youth services—Crisis residential centers—Establishment—Staff—Duties—Semi-secure facilities—Secure facilities. (1) The department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department of social and health services and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Crisis residential centers must record client information into a homeless management information system specified by the department.

(3) Within available funds appropriated for this purpose, the department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department of social and health services. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

(4) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to performance-based contracts with licensed private group care facilities.

(5) The department is authorized to allow contracting entities to include a combination of secure or semi-secure crisis residential centers as defined in RCW 13.32A.030 and/or HOPE centers pursuant to RCW 43.185C.315 in the same building or structure. The department of social and health services shall permit the colocation of these centers only if the entity operating the facility agrees to designate a particular number of beds to each type of center that is located within the building or structure.

(6) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 43.185C.280.

(7) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no less than one adult staff member to every ten children. The staffing ratio shall continue to ensure the safety of the children.

(8) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility. [2017 c 277 § 6; 2015 c 69 § 19; 2011 c 240 § 1; 2009 c 520 § 53; 1998 c 296 § 4; 1995 c 312 § 60; 1979 c 155 § 78. Formerly RCW 74.13.032.]

Short title—2015 c 69: See RCW 43.330.911.

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

Additional notes found at www.leg.wa.gov

43.185C.2951 Youth services—Crisis residential centers—Incremental increase in beds. Subject to funds appropriated for this purpose, the capacity available in crisis residential centers established pursuant to this chapter shall be increased incrementally by no fewer than ten beds per fiscal year through fiscal year 2019 in order to accommodate truant students found in contempt of a court order to attend school. The additional capacity shall be distributed around the state based upon need and, to the extent feasible, shall be geographically situated to expand the use of crisis residential centers as set forth in this chapter so they are available for use by all courts for housing truant youth. [2016 c 205 § 12.]

43.185C.300 Youth services—Secure facilities—Limit on reimbursement or compensation. No contract may provide reimbursement or compensation to:

(1) A secure facility located in a juvenile detention center for any service delivered or provided to a resident child after five consecutive days of residence; or

(2) A secure facility not located in a juvenile detention center or a semi-secure crisis residential center facility for any service delivered or provided to a resident child after fifteen consecutive days of residence. [2009 c 569 § 2; 1995 c 312 § 61. Formerly RCW 74.13.0321.]

Additional notes found at www.leg.wa.gov

43.185C.305 Youth services—Crisis residential centers—Removal from—Services available—Unauthorized leave. (1) If a resident of a crisis residential center becomes by his or her behavior disruptive to the facility's program, such resident may be immediately removed to a separate area within the facility and counseled on an individual basis until such time as the child regains his or her composure. The department may set rules and regulations establishing additional procedures for dealing with severely disruptive children on the premises.

(2) When the juvenile resides in this facility, all services deemed necessary to the juvenile's reentry to normal family life shall be made available to the juvenile as required by chapter 13.32A RCW. In assessing the child and providing these services, the facility staff shall:

(a) Interview the juvenile as soon as possible;

(b) Contact the juvenile's parents and arrange for a counseling interview with the juvenile and his or her parents as soon as possible;

(c) Conduct counseling interviews with the juvenile and his or her parents, to the end that resolution of the child/parent conflict is attained and the child is returned home as soon as possible;

(d) Provide additional crisis counseling as needed, to the end that placement of the child in the crisis residential center will be required for the shortest time possible, but not to exceed fifteen consecutive days; and

(e) Convene, when appropriate, a multidisciplinary team.

(3) Based on the assessments done under subsection (2) of this section the center staff may refer any child who, as the result of a mental or emotional disorder, or intoxication by alcohol or other drugs, is suicidal, seriously assaultive, or seriously destructive toward others, or otherwise similarly evidences an immediate need for emergency medical evaluation and possible care, for evaluation pursuant to chapter 71.34 RCW or to a designated crisis responder pursuant to chapter 71.05 RCW whenever such action is deemed appropriate and consistent with law.

(4) A juvenile taking unauthorized leave from a facility shall be apprehended and returned to it by law enforcement officers or other persons designated as having this authority as provided in RCW 43.185C.260. If returned to the facility after having taken unauthorized leave for a period of more than twenty-four hours a juvenile shall be supervised by such a facility for a period, pursuant to this chapter, which, unless where otherwise provided, may not exceed fifteen consecutive days. Costs of housing juveniles admitted to crisis residential centers shall be assumed by the department for a period not to exceed fifteen consecutive days. [2016 sp.s. c 29 § 428; 2015 c 69 § 20; 2009 c 569 § 3; 2000 c 162 § 16; 2000 c 162 § 7; 1995 c 312 § 62; 1992 c 205 § 213; 1979 c 155 § 79. Formerly RCW 74.13.033.]

Effective dates—2016 sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 sp.s. c 29: See notes following RCW 71.05.010.

Short title—2015 c 69: See RCW 43.330.911.

Additional notes found at www.leg.wa.gov

43.185C.310 Youth services—Crisis residential centers—Removal to another center or secure facility—

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Placement in secure juvenile detention facility. (1) A child taken into custody and taken to a crisis residential center established pursuant to RCW 43.185C.295 may, if the center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center, the nearest regional secure crisis residential center, or a secure facility with which it is collocated under RCW 43.185C.295. Placement in both locations shall not exceed fifteen consecutive days from the point of intake as provided in RCW 43.185C.290.

(2) A child taken into custody and taken to a crisis residential center established by this chapter may be placed physically by the department of social and health services' designee and, at their departmental expense and approval, in a secure juvenile detention facility operated by the county in which the center is located for a maximum of forty-eight hours, including Saturdays, Sundays, and holidays, if the child has taken unauthorized leave from the center and the person in charge of the center determines that the center cannot provide supervision and structure adequate to ensure that the child will not again take unauthorized leave. Juveniles placed in such a facility pursuant to this section may not, to the extent possible, come in contact with alleged or convicted juvenile or adult offenders.

(3) Any child placed in secure detention pursuant to this section shall, during the period of confinement, be provided with appropriate treatment by the department of social and health services or the department's designee, which shall include the services defined in RCW 43.185C.305(2). If the child placed in secure detention is not returned home or if an alternative living arrangement agreeable to the parent and the child is not made within twenty-four hours after the child's admission, the child shall be taken at the department's expense to a crisis residential center. Placement in the crisis residential center or centers plus placement in juvenile detention shall not exceed five consecutive days from the point of intake as provided in RCW 43.185C.290.

(4) Juvenile detention facilities used pursuant to this section shall first be certified by the department of social and health services to ensure that juveniles placed in the facility pursuant to this section are provided with living conditions suitable to the well-being of the child. Where space is available, juvenile courts, when certified by the department of social and health services to do so, shall provide secure placement for juveniles pursuant to this section, at department expense. [2015 c 69 § 21; 2009 c 569 § 4; 2000 c 162 § 17; 2000 c 162 § 8; 1995 c 312 § 63; 1992 c 205 § 214; 1991 c 364 § 5; 1981 c 298 § 17; 1979 ex.s. c 165 § 21; 1979 c 155 § 80. Formerly RCW 74.13.034.]

Short title—2015 c 69: See RCW 43.330.911.

Child admitted to secure facility—Maximum hours of custody—Reconciliation effort—Information to parent and child—Written statement of services and rights: RCW 43.185C.290.

Additional notes found at www.leg.wa.gov

43.185C.315 Youth services—HOPE centers—Establishment—Requirements. (1) The department shall establish HOPE centers across the state and may establish HOPE centers by contract, within funds appropriated by the legislature specifically for this purpose. HOPE centers shall be operated in a manner to reasonably assure that street youth

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placed there will not run away. Pursuant to rules established by the facility administrator, residents may come and go from the facility at reasonable hours such that no residents are free to come and go at all hours of the day and night. The facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the HOPE center. Any street youth who runs away from a HOPE center shall not be readmitted unless specifically authorized by the street youth's placement and liaison specialist, and the placement and liaison specialist shall document with specific factual findings an appropriate basis for readmitting any street youth to a HOPE center. HOPE centers are required to have the following:

(a) A license issued by the department of children, youth, and families, including staff who meet licensing qualifications;

(b) A case manager who may be a contractual or a part-time employee, but must be available to work with street youth in a HOPE center at a ratio of one to every fifteen youth staying in a HOPE center. This case manager shall be known as a placement and liaison specialist. Preference shall be given to those case managers who have experience working with adolescents and are cross-credentialed in mental health and chemical dependency. The placement and liaison specialist shall:

(i) Conduct an assessment of the street youth that includes a determination of the street youth's legal status regarding residential placement;

(ii) Facilitate the street youth's return to his or her legally authorized residence at the earliest possible date or initiate processes to arrange legally authorized appropriate placement. Any street youth who may meet the definition of dependent child under RCW 13.34.030 must be referred to the department of children, youth, and families. The department of children, youth, and families shall determine whether a dependency petition should be filed under chapter 13.34 RCW. A shelter care hearing must be held within seventy-two hours to authorize out-of-home placement for any youth the department of children, youth, and families determines is appropriate for out-of-home placement under chapter 13.34 RCW. All of the provisions of chapter 13.32A RCW must be followed for children in need of services or at-risk youth;

(iii) Interface with other relevant resources and system representatives to secure long-term residential placement and other needed services for the street youth;

(iv) Be assigned immediately to each youth and meet with the youth within eight hours of the youth receiving HOPE center services;

(v) Facilitate a physical examination of any street youth who has not seen a physician within one year prior to residence at a HOPE center and facilitate evaluation by a county-designated mental health professional, a chemical dependency specialist, or both if appropriate; and

(vi) Arrange an educational assessment to measure the street youth's competency level in reading, writing, and basic mathematics, and that will measure learning disabilities or special needs;

(c) Staff trained in development needs of street youth as determined by the department, including but not limited to an on-site program manager who must work with the placement and liaison specialist to provide appropriate services on-site;

(d) A data collection system that measures outcomes for the population served, and enables research and evaluation that can be used for future program development and service delivery. Data collection systems must have confidentiality rules and protocols developed by the department;

(e) Notification requirements that meet the notification requirements of chapter 13.32A RCW. The youth's arrival date and time must be logged at intake by HOPE center staff. The staff must immediately notify law enforcement and dependency caseworkers if a street youth runs away from a HOPE center. A child may be transferred to a secure facility as defined in RCW 13.32A.030 whenever the staff reasonably believes that a street youth is likely to leave the HOPE center and not return after full consideration of the factors set forth in RCW 43.185C.290(2)(a) (i) and (ii). The street youth's temporary placement in the HOPE center must be authorized by the court or the secretary of the department of children, youth, and families if the youth is a dependent of the state under chapter 13.34 RCW or the department of children, youth, and families is responsible for the youth under chapter 13.32A RCW, or by the youth's parent or legal custodian, until such time as the parent can retrieve the youth who is returning to home;

(f) HOPE centers must identify to the department of children, youth, and families any street youth it serves who is not returning promptly to home. The department of children, youth, and families then must contact the missing children's clearinghouse identified in chapter 13.60 RCW and either report the youth's location or report that the youth is the subject of a dependency action and the parent should receive notice from the department of children, youth, and families; and

(g) Services that provide counseling and education to the street youth.

(2) The department shall award contracts for the operation of HOPE center beds with the goal of facilitating the coordination of services provided for youth by such programs and those services provided by secure and semi-secure crisis residential centers.

(3) Subject to funds appropriated for this purpose, the department must incrementally increase the number of available HOPE beds by at least seventeen beds in fiscal year 2017, at least seventeen beds in fiscal year 2018, and at least seventeen beds in fiscal year 2019, such that by July 1, 2019, seventy-five HOPE beds are established and operated throughout the state as set forth in subsection (1) of this section.

(4) Subject to funds appropriated for this purpose, the beds available in HOPE centers shall be increased incrementally. The additional capacity shall be distributed around the state based upon need and, to the extent feasible, shall be geographically situated so that HOPE beds are available across the state. In determining the need for increased numbers of HOPE beds in a particular county or counties, one of the considerations should be the volume of truancy petitions filed there. [2019 c 124 § 3; 2017 c 277 § 7; 2016 c 205 § 10; 2015

c 69 § 22; 2011 c 240 § 2; 1999 c 267 § 12. Formerly RCW 74.15.220.]

Short title—2015 c 69: See RCW 43.330.911.

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

Additional notes found at www.leg.wa.gov

43.185C.320 Youth services—HOPE centers—Eligibility—Minors. To be eligible for placement in a HOPE center, a minor must be either a street youth, as that term is defined in this chapter, or a youth who, without placement in a HOPE center, will continue to participate in increasingly risky behavior, including truancy. Youth may also self-refer to a HOPE center. [2017 c 277 § 8; 2016 c 205 § 11; 2015 c 69 § 23; 2008 c 267 § 10. Formerly RCW 74.15.225.]

Short title—2015 c 69: See RCW 43.330.911.

43.185C.325 Youth services—HOPE centers—Responsible living skills programs—Grant proposals—Technical assistance. The department shall provide technical assistance in preparation of grant proposals for HOPE centers and responsible living skills programs to nonprofit organizations unfamiliar with and inexperienced in submission of requests for proposals to the department. [1999 c 267 § 21. Formerly RCW 74.15.260.]

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.185C.330 Youth services—HOPE centers—Responsible living skills programs—Awarding of contracts. The department shall consider prioritizing, on an ongoing basis, the awarding of contracts for HOPE centers and responsible living skills programs to providers who have not traditionally been awarded contracts with the department. [1999 c 267 § 22. Formerly RCW 74.15.270.]

Findings—Intent—Severability—1999 c 267: See notes following RCW 43.20A.790.

43.185C.340 Students experiencing homelessness—Grant program to link families with housing—Program goals—Grant process—Requirements—Grantees report to the department. (1) Subject to funds appropriated for this specific purpose, the department shall administer a grant program that links students experiencing homelessness and their families with stable housing located in the student's school district. The goals of the program are to:

(a) Provide educational stability for students experiencing homelessness by promoting housing stability; and

(b) Encourage the development of collaborative strategies between housing and education partners.

(2) To ensure that innovative strategies between housing and education partners are developed and implemented, the department may contract and consult with a designated vendor to provide technical assistance and program evaluation, and assist with making grant awards. If the department contracts with a vendor, the vendor must be selected by the director and:

(a) Be a nonprofit vendor;

(b) Be located in Washington state; and

(c) Have a demonstrated record of working toward the housing and educational stability of students and families experiencing homelessness.

(3) In implementing the program, the department, or the department in partnership with its designated vendor, shall consult with the office of the superintendent of public instruction.

(4) The department, or the designated vendor in consultation with the department, shall develop a competitive grant process to make grant awards to eligible organizations on implementation of the proposal. For the purposes of this subsection, "eligible organization" means any local government, local housing authority, behavioral health administrative services organization established under chapter 71.24 RCW, behavioral health organization, nonprofit community or neighborhood-based organization, federally recognized Indian tribe in the state of Washington, or regional or state-wide nonprofit housing assistance organization. Applications for the grant program must include a memorandum of understanding between the housing providers and school districts defining the responsibilities and commitments of each party to identify, house, and support students experiencing homelessness. The memorandum must include:

(a) How housing providers will partner with school districts to address gaps and needs and develop sustainable strategies to help students experiencing homelessness; and

(b) How data on students experiencing homelessness and their families will be collected and shared in accordance with privacy protections under applicable federal and state laws.

(5) In determining which eligible organizations will receive grants, the department must ensure that selected grantees reflect geographic diversity across the state. Greater weight shall be given to eligible organizations that demonstrate a commitment to:

(a) Partnering with local schools or school districts; and

(b) Developing and implementing evidence-informed strategies to address racial inequities. Specific strategies may include, but are not limited to:

(i) Hiring direct service staff who reflect the racial, cultural, and language demographics of the population being served;

(ii) Committing to inclusive programming by intentionally seeking and utilizing input from the population being served;

(iii) Ensuring eligibility criteria does not unintentionally screen out people of color and further racial inequity; and

(iv) Creating access points in locations frequented by parents, guardians, and unaccompanied homeless youth of color.

(6) Activities eligible for assistance under this grant program include but are not limited to:

(a) Rental assistance, which includes utilities, security and utility deposits, first and last month's rent, rental application fees, moving expenses, and other eligible expenses to be determined by the department;

(b) Transportation assistance, including gasoline assistance for families with vehicles and bus passes;

(c) Emergency shelter;

(d) Housing stability case management; and

(e) Other collaborative housing strategies, including prevention and strength-based safety and housing approaches.

(7)(a) All beneficiaries of funds from the grant program must be from households that include at least one student experiencing homelessness as defined as a child or youth without a fixed, regular, and adequate nighttime residence in accordance with the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

(b) For the purposes of this section, "student experiencing homelessness" includes unaccompanied homeless youth not in the physical custody of a parent or guardian. "Unaccompanied homeless youth" includes students up to the age of twenty-one, in alignment with the qualifications for school admissions under RCW 28A.225.160(1).

(8)(a) Grantee organizations must compile and report information to the department. The department shall report to the legislature the findings of the grantee, the housing stability of the homeless families, and any related policy recommendations.

(b) Grantees must track and report on the following measures including, but not limited to:

- (i) Length of time enrolled in the grant program;
- (ii) Housing destination at program exit;
- (iii) Type of residence prior to enrollment in the grant program; and
- (iv) Number of times homeless in the past three years.

(c) Grantees must also include in their reports a narrative description discussing its partnership with school districts as set forth in the memorandum outlined in subsection (4) of this section. Reports must also include the kinds of supports grantees are providing students and families to support academic learning.

(d) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

(9) In order to ensure that housing providers are meeting the requirements of the grant program for students experiencing homelessness, the department, or the department in partnership with its designee, shall monitor the program at least once every two years.

(10) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the department. In its review, the department, or the department in partnership with its designee, shall monitor program components that include the process used by the eligible organization to identify and reach out to students experiencing homelessness, and other indicators to determine how well the eligible organization is meeting the housing needs of students experiencing homelessness. The department, or the department in partnership with its designee, shall provide technical assistance and support to housing providers to better implement the program. [2019 c 412 § 2; 2019 c 325 § 5015; 2016 c 157 § 3.]

Reviser's note: This section was amended by 2019 c 325 § 5015 and by 2019 c 412 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2019 c 325: See note following RCW 71.24.011.

Finding—Intent—Short title—2016 c 157: See notes following RCW 28A.300.540.

43.185C.900 Short title. This chapter may be known and cited as the homelessness housing and assistance act. [2005 c 484 § 2.]

43.185C.901 Conflict with federal requirements—2005 c 484. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2005 c 484 § 24.]

43.185C.902 Effective date—2005 c 484. This act takes effect August 1, 2005. [2005 c 484 § 25.]

Chapter 43.190 RCW

LONG-TERM CARE OMBUDS PROGRAM

Sections

- 43.190.010 Findings.
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- 43.190.070 Referral procedures—Action on complaints.
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- 43.190.090 Liability of ombuds—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony.
- 43.190.110 Confidentiality of records and files—Disclosures prohibited—Exception.
- 43.190.120 Expenditure of funds on long-term care ombuds program.

43.190.010 Findings. The legislature finds that in order to comply with the federal older Americans act and to effectively assist residents, patients, and clients of long-term care facilities in the assertion of their civil and human rights, a long-term care ombuds program should be instituted. [2013 c 23 § 88; 1983 c 290 § 1.]

43.190.020 "Long-term care facility" defined. As used in this chapter, "long-term care facility" means any of the following:

- (1) A facility which:
 - (a) Maintains and operates twenty-four hour skilled nursing services for the care and treatment of chronically ill or convalescent patients, including mental, emotional, or behavioral problems, intellectual disabilities, or alcoholism;
 - (b) Provides supportive, restorative, and preventive health services in conjunction with a socially oriented program to its residents, and which maintains and operates twenty-four hour services including board, room, personal care, and intermittent nursing care. "Long-term health care facility" includes nursing homes and nursing facilities, but does not include acute care hospital or other licensed facilities except for that distinct part of the hospital or facility which provides nursing facility services.

(2) Any family home, group care facility, or similar facility determined by the secretary, for twenty-four hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(3) Any swing bed in an acute care facility. [2010 c 94 § 13; 1995 1st sp.s. c 18 § 32; 1991 sp.s. c 8 § 3; 1983 c 290 § 2.]

Purpose—2010 c 94: See note following RCW 44.04.280.

Additional notes found at www.leg.wa.gov

43.190.030 Office of state long-term care ombuds created—Powers and duties—Rules. There is created the office of the state long-term care ombuds. The department of commerce shall contract with a private nonprofit organization to provide long-term care ombuds services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The department of commerce shall ensure that all program and staff support necessary to enable the ombuds to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombuds services. The department of commerce shall adopt rules to carry out this chapter and the long-term care ombuds provisions of the federal older Americans act, as amended, and applicable federal regulations. The long-term care ombuds program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ombuds throughout the state;

(2) Carry out such other activities as the department of commerce deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombuds to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ombuds programs shall be disclosed only at the discretion of the ombuds having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombuds unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order. [2013 c 23 § 89; 1997 c 194 § 1; 1995 c 399 § 105; 1988 c 119 § 2; 1983 c 290 § 3.]

Legislative findings—1988 c 119: "The legislature recognizes that the state long-term care ombudsman [ombuds] program and the office of the

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state long-term care ombudsman [ombuds], located within the department of social and health services, have brought into serious question the ability of that office to serve as an effective mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities.

The legislature further finds it necessary to exercise its options under the federal older Americans act and identify an organization, outside of the department of social and health services and independent of any other state agency, to provide, through contract, long-term care ombudsman [ombuds] services." [1988 c 119 § 1.]

Use of survey findings—1988 c 119: "The survey findings, together with any reports of legislative committees in response to such survey, shall be used by the department of community development in determining the best manner to contract for and provide long-term care ombudsman [ombuds] services." [1988 c 119 § 4.]

Additional notes found at www.leg.wa.gov

43.190.040 Long-term care ombuds. (1) Any long-term care ombuds authorized by this chapter or a local governmental authority shall have training or experience or both in the following areas:

(a) Gerontology, long-term care, or other related social services programs.

(b) The legal system.

(c) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

(2) A long-term care ombuds shall not have been employed by or participated in the management of any long-term care facility within the past year.

(3) A long-term care ombuds shall not have been employed in a governmental position with direct involvement in the licensing, certification, or regulation of long-term care facilities within the past year.

(4) No long-term care ombuds or any member of his or her immediate family shall have, or have had within the past year, any significant ownership or investment interest in one or more long-term care facilities.

(5) A long-term care ombuds shall not be assigned to a long-term care facility in which a member of that ombuds's immediate family resides. [2013 c 23 § 90; 2002 c 100 § 1; 1983 c 290 § 4.]

43.190.050 Posting of notice by long-term care facility—Distribution of information to residents. Every long-term care facility shall post in a conspicuous location a notice of the nursing home complaint toll-free number and the name, address, and phone number of the office of the appropriate long-term care ombuds and a brief description of the services provided by the office. The form of the notice shall be approved by the office and the organization responsible for maintaining the nursing home complaint toll-free number. This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility. [2013 c 23 § 91; 1983 c 290 § 5.]

43.190.060 Duties of ombuds. A long-term care ombuds shall:

(1) Identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to administrative action, inaction, or decisions which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

(3) Provide information as appropriate to residents, resident representatives, and others regarding the rights of residents, and to public agencies regarding the problems of individuals residing in long-term care facilities; and

(4) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombuds program. A trained volunteer long-term care ombuds, in accordance with the policies and procedures established by the state long-term care ombuds program, shall inform residents, their representatives, and others about the rights of residents, and may identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions, that may adversely affect the health, safety, welfare, and rights of these individuals.

Nothing in chapter 133, Laws of 1999 shall be construed to empower the state long-term care ombuds or any local long-term care ombuds with statutory or regulatory licensing or sanctioning authority. [2013 c 23 § 92; 1999 c 133 § 1; 1995 1st sp.s. c 18 § 33; 1987 c 158 § 3; 1983 c 290 § 6.]

Definitions: See RCW 74.39.007.

Additional notes found at www.leg.wa.gov

43.190.065 Local and state long-term care ombuds—Duties and authority in federal older Americans act. A local long-term care ombuds, including a trained volunteer long-term care ombuds, shall have the duties and authority set forth in the federal older Americans act (42 U.S.C. Sec. 3058 et seq.) for local ombuds. The state long-term care ombuds and representatives of the office of the state long-term care ombuds, shall have the duties and authority set forth in the federal older Americans act for the state long-term care ombuds and representatives of the office of the state long-term care ombuds. [2013 c 23 § 93; 1999 c 133 § 2.]

Additional notes found at www.leg.wa.gov

43.190.070 Referral procedures—Action on complaints. (1) The office of the state long-term care ombuds shall develop referral procedures for all long-term care ombuds programs to refer any complaint to any appropriate state or local government agency. The department of social and health services shall act as quickly as possible on any complaint referred to them by a long-term care ombuds.

(2) The department of social and health services shall respond to any complaint against a long-term care facility which was referred to it by a long-term care ombuds and shall forward to that ombuds a summary of the results of the investigation and action proposed or taken. [2013 c 23 § 94; 1983 c 290 § 7.]

43.190.080 Development of procedures on right of entry to facilities—Access to residents—Preservation of rights. (1) The office of the state long-term care ombuds shall develop procedures governing the right of entry of all long-term care ombuds to long-term care facilities and shall have access to residents with provisions made for privacy for the purpose of hearing, investigating, and resolving com-

plaints of, and rendering advice to, individuals who are patients or residents of the facilities at any time deemed necessary and reasonable by the state ombuds to effectively carry out the provisions of this chapter.

(2) Nothing in this chapter restricts, limits, or increases any existing right of any organizations or individuals not described in subsection (1) of this section to enter or provide assistance to patients or residents of long-term care facilities.

(3) Nothing in this chapter restricts any right or privilege of any patient or resident of a long-term care facility to receive visitors of his or her choice. [2013 c 23 § 95; 1983 c 290 § 8.]

43.190.090 Liability of ombuds—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony. (1) No long-term care ombuds is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any employee of a facility or agency, any patient, resident, or client of a long-term care facility, or any volunteer, for any communication made, or information given or disclosed, to aid the long-term care ombuds in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by a long-term care ombuds, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

(4) A representative of the office is exempt from being required to testify in court as to any confidential matters except as the court may deem necessary to enforce this chapter. [2013 c 23 § 96; 1983 c 290 § 9.]

43.190.110 Confidentiality of records and files—Disclosures prohibited—Exception. All records and files of long-term care ombuds relating to any complaint or investigation made pursuant to carrying out their duties and the identities of complainants, witnesses, patients, or residents shall remain confidential unless disclosure is authorized by the patient or resident or his or her guardian or legal representative. No disclosures may be made outside the office without the consent of any named witnesses, resident, patient, client, or complainant unless the disclosure is made without the identity of any of these individuals being disclosed. [2013 c 23 § 97; 1983 c 290 § 11.]

43.190.120 Expenditure of funds on long-term care ombuds program. It is the intent that federal requirements be complied with and the department annually expend at least one percent of the state's allotment of social services funds from Title III B of the older Americans act of 1965, as it exists as of July 24, 1983, or twenty thousand dollars, whichever is greater to establish the state long-term care ombuds program established by this chapter if funds are appropriated by the legislature. [2013 c 23 § 98; 1983 c 290 § 12.]

Chapter 43.210 RCW

SMALL BUSINESS EXPORT FINANCE ASSISTANCE CENTER

Sections

43.210.010	Findings.
43.210.020	Small business export finance assistance center authorized—Purposes.
43.210.030	Board of directors—Membership—Terms—Vacancies.
43.210.040	Powers and duties.
43.210.050	Export assistance services contract with department of commerce.
43.210.060	Rule-making authority.
43.210.080	Rural manufacturer export outreach program—Export loan or loan guarantee programs.
43.210.130	Minority business export outreach program.

43.210.010 Findings. The legislature finds:

(1) The exporting of goods and services from Washington to international markets is an important economic stimulus to the growth, development, and stability of the state's businesses in both urban and rural areas, and that these economic activities create needed jobs for Washingtonians.

(2) Impediments to the entry of many small and medium-sized businesses into export markets have restricted growth in exports from the state.

(3) Particularly significant impediments for many small and medium-sized businesses are the lack of easily accessible information about export opportunities and financing alternatives.

(4) There is a need for a small business export finance assistance center which will specialize in providing export assistance to small and medium-sized businesses throughout the state in acquiring information about export opportunities and financial alternatives for exporting. [1990 1st ex.s. c 17 § 65; 1985 c 231 § 1; 1983 1st ex.s. c 20 § 1.]

Intent—1990 1st ex.s. c 17: "The legislature finds that the Puget Sound region is experiencing economic prosperity and the challenges associated with rapid growth; much of the rest of the state is not experiencing economic prosperity, and faces challenges associated with slow economic growth. It is the intent of the legislature to encourage economic prosperity and balanced economic growth throughout the state.

In order to accomplish this goal, growth must be managed more effectively in the Puget Sound region, and rural areas must build local capacity to accommodate additional economic activity in their communities. Where possible, rural economies and low-income areas should be linked with prosperous urban economies to share economic growth for the benefit of all areas and the state.

To accomplish this goal it is the intent of the legislature to: (1) Assure equitable opportunities to secure prosperity for distressed areas, rural communities, and disadvantaged populations by promoting urban-rural economic links, and by promoting value-added product development, business networks, and increased exports from rural areas; (2) improve the economic development service delivery system to be better able to serve these areas, communities, and populations; (3) redirect the priorities of the state's economic development programs to focus economic development efforts into areas and sectors of the greatest need; (4) build local capacity so that communities are better able to plan for growth and achieve self-reliance; (5) administer grant programs to promote new feasibility studies and project development on projects of interest to rural areas or areas outside of the Puget Sound region; and (6) develop a coordinated economic investment strategy involving state economic development programs, businesses, educational and vocational training institutions, local governments and local economic development organizations, ports, and others." [1990 1st ex.s. c 17 § 64.]

Additional notes found at www.leg.wa.gov

43.210.020 Small business export finance assistance center authorized—Purposes. A nonprofit corporation, to be known as the small business export finance assistance center,

and branches subject to its authority, may be formed under chapter 24.03A RCW for the following public purposes:

(1) To assist small and medium-sized businesses in both urban and rural areas in the financing of export transactions.

(2) To provide, singly or in conjunction with other organizations, information and assistance to these businesses about export opportunities and financing alternatives. [2021 c 176 § 5224; 1998 c 109 § 1; 1990 1st ex.s. c 17 § 66; 1985 c 231 § 2; 1983 1st ex.s. c 20 § 2.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Additional notes found at www.leg.wa.gov

43.210.030 Board of directors—Membership—Terms—Vacancies. The small business export finance assistance center and its branches shall be governed and managed by a board of seven directors appointed by the governor, with the advice of the board, and confirmed by the senate. The directors shall serve terms of four years following the terms of service established by the initial appointments after June 11, 1998. Three appointees, including directors on June 11, 1998, who are reappointed, must serve initial terms of two years and, if a director is reappointed that director may serve a consecutive four-year term. Four appointees, including directors on June 11, 1998, who are reappointed, must serve initial terms of four years and, if a director is reappointed that director may serve a consecutive four-year term. After the initial appointments, directors may serve two consecutive terms. The directors may provide for the payment of their expenses. The directors shall include the *director of community, trade, and economic development or the director's designee; representatives of a large financial institution engaged in financing export transactions in the state of Washington; a small financial institution engaged in financing export transactions in the state of Washington; a large exporting company domiciled in the state of Washington; a small exporting company in the state of Washington; organized labor in a trade involved in international commerce; and a representative at large. To the extent possible, appointments to the board shall reflect geographical balance and the diversity of the state population. Any vacancies on the board due to the expiration of a term or for any other reason shall be filled by appointment by the governor for the unexpired term. [1998 c 109 § 2; 1995 c 399 § 106; 1991 c 314 § 15; 1985 c 231 § 3; 1983 1st ex.s. c 20 § 3.]

*Reviser's note: The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Findings—1991 c 314: See note following RCW 43.160.020.

43.210.040 Powers and duties. (1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 has the powers granted under chapter 24.03A RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans or provide loan guarantees on loans made by financial institutions to Washington businesses with annual sales of two hundred million dollars or less for the

purpose of financing exports of goods or services by those businesses to buyers in foreign countries and for the purpose of financing business growth to accommodate increased export sales. Loans or loan guarantees made under the authority of this section may only be considered upon a financial institution's assurance that such loan or loan guarantee is otherwise not available;

(c) Provide assistance to businesses with annual sales of two hundred million dollars or less in obtaining loans and guarantees of loans made by financial institutions for the purpose of financing export of goods or services from the state of Washington;

(d) Provide export finance and risk mitigation counseling to Washington exporters with annual sales of two hundred million dollars or less, provided that such counseling is not practicably available from a Washington for-profit business. For such counseling, the center may charge reasonable fees as it determines are necessary;

(e) Provide assistance in obtaining export credit insurance or alternate forms of foreign risk mitigation to facilitate the export of goods and services from the state of Washington;

(f) Be available as a teaching resource to both public and private sponsors of workshops and programs relating to the financing and risk mitigation aspects of exporting products and services from the state of Washington;

(g) Develop a comprehensive inventory of export-financing resources, both public and private, including information on resource applicability to specific countries and payment terms;

(h) Contract with the federal government and its agencies to become a program administrator for federally provided loan guarantee and export credit insurance programs; and

(i) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [2021 c 176 § 5225; 2010 c 166 § 1; 1998 c 109 § 3; 1987 c 505 § 43; 1985 c 231 § 4; 1983 1st ex.s. c 20 § 4.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

43.210.050 Export assistance services contract with department of commerce. (1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 must enter into a contract under this chapter with the department of commerce or its statutory successor.

(2) The contract under subsection (1) of this section must:

(a) Require the center to provide export assistance services;

(b) Have a duration of two years;

(c) Require the center to aggressively seek to fund its continued operation from nonstate funds; and

(d) Require the center to report annually to the department on its success in obtaining nonstate funding. [2010 c 166 § 2; 1998 c 245 § 84; 1995 c 399 § 107; 1991 c 314 § 16. Prior: 1985 c 466 § 64; 1985 c 231 § 5; 1983 1st ex.s. c 20 § 5.]

Findings—1991 c 314: See note following RCW 43.160.020.

Additional notes found at www.leg.wa.gov

43.210.060 Rule-making authority. The *department of community, trade, and economic development or its statutory successor shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1995 c 399 § 108; 1985 c 466 § 65; 1983 1st ex.s. c 20 § 6.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

43.210.080 Rural manufacturer export outreach program—Export loan or loan guarantee programs. Subject to the availability of amounts appropriated for this specific purpose, the small business export finance assistance center must:

(1) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(2) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities. [2010 c 166 § 3.]

43.210.130 Minority business export outreach program. The small business export finance assistance center shall develop a minority business export outreach program. The program shall provide outreach services to minority-owned businesses in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters. [1993 c 512 § 5.]

Office of minority and women's business enterprises: Chapter 39.19 RCW.

Chapter 43.211 RCW
211 INFORMATION SYSTEM

Sections

43.211.005	Findings.
43.211.010	211 system.
43.211.020	Definitions.
43.211.030	New information services.
43.211.040	211 services.
43.211.060	Use of 211 account moneys.
43.211.070	Reports to the legislature.
43.211.902	Effective date—2003 c 135.

43.211.005 Findings. The legislature finds that the implementation of a single easy to use telephone number, 211, for public access to information and referral for health and human services and information about access to services after a natural or nonnatural disaster will benefit the citizens of the state of Washington by providing easier access to available health and human services, by reducing inefficiencies in connecting people with the desired service providers, and by reducing duplication of efforts. The legislature further finds in a time of reduced resources for providing health and human services that establishing a cost-effective means to continue to provide information to the public about available services is important. The legislature further finds that an integrated statewide system of local information and referral service providers will build upon an already existing network of experienced service providers without the necessity of creating a new agency, department, or system to provide 211 services. The legislature further finds that no funds should be appropriated by the legislature to a 211 system under chapter 135, Laws of 2003 without receiving documentation that a 211 system will provide savings to the state. [2003 c 135 § 1.]

43.211.010 211 system. 211 is created as the official state dialing code for public access to information and referral for health and human services and information about access to services after a natural or nonnatural disaster. [2003 c 135 § 2.]

43.211.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of social and health services.

(2) "WIN 211" means the Washington information network 211, a 501(c)(3) corporation incorporated in the state of Washington.

(3) "Approved 211 service provider" means a public or nonprofit agency or organization designated by WIN 211 to provide 211 services.

(4) "211 service area" means an area of the state of Washington identified by WIN 211 as an area in which an approved 211 service provider will provide 211 services.

(5) "211" means the abbreviated dialing code assigned by the federal communications commission on July 21, 2000, for consumer access to community information and referral services. [2003 c 135 § 3.]

43.211.030 New information services. Before a state agency or department that provides health and human ser-

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vices establishes a new public information telephone line or hotline, the state agency or department shall consult with WIN 211 about using the 211 system to provide public access to the information. [2003 c 135 § 4.]

43.211.040 211 services. Only a service provider approved by WIN 211 may provide 211 telephone services. WIN 211 shall approve 211 service providers, after considering the following:

(1) The ability of the proposed 211 service provider to meet the national 211 standards recommended by the alliance of information and referral systems and adopted by the national 211 collaborative on May 5, 2000;

(2) The financial stability and health of the proposed 211 service provider;

(3) The community support for the proposed 211 service provider;

(4) The relationships with other information and referral services; and

(5) Such other criteria as WIN 211 deems appropriate. [2003 c 135 § 5.]

43.211.060 Use of 211 account moneys. (1) WIN 211 shall study, design, implement, and support a statewide 211 system.

(2) Activities eligible for assistance from the 211 account include, but are not limited to:

(a) Creating a structure for a statewide 211 resources database that will meet the alliance for information and referral systems standards for information and referral systems databases and that will be integrated with local resources databases maintained by approved 211 service providers;

(b) Developing a statewide resources database for the 211 system;

(c) Maintaining public information available from state agencies, departments, and programs that provide health and human services for access by 211 service providers;

(d) Providing grants to approved 211 service providers for the design, development, and implementation of 211 for its 211 service area;

(e) Providing grants to approved 211 service providers to enable 211 service providers to provide 211 service on an ongoing basis; and

(f) Providing grants to approved 211 service providers to enable the provision of 211 services on a twenty-four-hour per day seven-day a week basis. [2003 c 135 § 7.]

43.211.070 Reports to the legislature. WIN 211 shall provide an annual report to the legislature and the department beginning July 1, 2004. [2003 c 135 § 8.]

43.211.902 Effective date—2003 c 135. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2003. [2003 c 135 § 11.]

Chapter 43.216 RCW

DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

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- 43.216.690 Child day care centers and outdoor nature-based child care providers—Immunization.
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- 43.216.700 Day care insurance.
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- 43.216.742 Outdoor nature-based child care program.
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- 43.216.749 Child care subsidy rates—Use of cost model.
- 43.216.750 Child welfare workers—Department duties—Technical work group to develop workload model—Annual report to legislature.
- 43.216.755 Child care providers—Community-based training pathway.
- 43.216.760 Child care and early learning providers—Firearms, dangerous weapons.
- 43.216.762 Child care and early learning providers—Firearms, dangerous weapons—Rules.
- 43.216.770 Fair start for kids account.
- 43.216.772 Fair start for kids account—Spending goals and strategies.
- 43.216.775 Inflationary adjustments to rates.

TECHNICAL PROVISIONS

- 43.216.900 Early childhood education and assistance program—Short title—1985 c 418.
- 43.216.901 Contingency—Effective date—1985 c 418.
- 43.216.902 Effective date—2006 c 265.
- 43.216.903 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.
- 43.216.904 Short title—2015 3rd sp.s. c 7.
- 43.216.905 Transfer of powers, duties, and functions of the department of early learning.
- 43.216.906 Transfer of child welfare provisions from the department of social and health services.
- 43.216.907 Transfer of juvenile justice services provisions from the department of social and health services.

- 43.216.908 Conflict with federal requirements—2017 3rd sp.s. c 6.
- 43.216.909 Transfer of working connections child care and seasonal child care programs from the department of social and health services.
- 43.216.910 Savings clause—2021 c 199.

GENERAL PROVISIONS

43.216.005 Findings. (1) The legislature finds that state services are not currently organized and delivered in a way that achieves the optimal outcomes for children, youth, and families. The legislature believes that, to improve service delivery and outcomes, existing services must be restructured into a comprehensive agency dedicated to the safety, development, and well-being of children that emphasizes prevention, early childhood development, and early intervention, and supporting parents to be their children's first and most important teachers.

(2) The legislature finds that:

(a) The early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development;

(b) A successful outcome for every child obtaining a K-12 education depends on children being prepared from birth for academic and social success in school. For children at risk of school failure, the opportunity gap often emerges as early as eighteen months of age;

(c) A more cohesive and integrated early learning system has been established that provides a solid foundation for further improvements in the quality and availability of early learning programs; and

(d) Increasing the availability of high quality services for children ages birth to three and their parents or caregivers will result in improved school and life outcomes.

(3) Research is clear that quality culturally and linguistically responsive early care and education builds the foundation for a child's success in school and in life. In restructuring early learning and child welfare services, the legislature seeks to build on the success of Washington's early learning efforts to assure children most at risk of experiencing adversity are provided high quality early learning experiences.

(4) The legislature finds that advancements in research and science have identified indicators of risk, how they impact healthy development, and the critical importance of stable, nurturing relationships, particularly in the early years. Services for families and children should be prioritized for those who are most at risk of neglect, physical harm, and other adverse factors.

(5) The legislature finds that a focus on adolescent development is needed to ensure that effective supports and interventions are targeted to support adolescents successfully transitioning to adulthood. Youth known to both the child welfare and juvenile justice systems often suffer from childhood trauma, have multisystem involvement, and experience homelessness. Increased integration of the child welfare and juvenile justice systems can increase opportunities for prevention and improve outcomes for youth in both systems.

(6) The legislature finds that children and youth of color are disproportionately impacted at every point in the child welfare and juvenile justice systems. The department of children, youth, and families must prioritize addressing equity,

disproportionality, and disparity in service delivery and outcomes, and provide transparent, frequent reporting of outcomes by race, ethnicity, and geography. The legislature finds that the state values the partnership with tribes in providing services for our children and youth and intends to honor the government-to-government relationship between the state and tribes.

(7) The department of children, youth, and families must be anchored in a culture of innovation, transparency, accountability, rigorous data analysis, and reliance on research and evidence-based interventions.

(8) The legislature finds that the public expects an effective service delivery system that is comprehensive, accountable, and goes beyond a single department's role. For this reason, the legislature is creating a mechanism in the department of children, youth, and families to align, integrate, and ensure accountability of state services for children, youth, and their families across state agencies so that there is a seamless, effective, prevention and early intervention-based service system regardless of which state agency is responsible for particular services.

(9) The legislature finds that the work of the department of children, youth, and families will only be as successful as the workforce—both the agency employees and community-based providers. Increased support for the professionals working with children, youth, and families is critical to improving outcomes.

(10) The legislature further finds that other states have successfully established integrated departments dedicated to serving children, youth, and families. These departments have improved the visibility of child and family issues, increased authority and accountability, enabled system improvements, and created a stronger focus on improving child outcomes. [2017 3rd sp.s. c 6 § 1.]

43.216.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" and "child care center" mean an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than 24 hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" and "family home provider" mean a child care provider who regularly provides early childhood education and early learning services for not more than 12 children at any given time in the provider's home in the family living quarters except as provided in RCW 43.216.692;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning,

school readiness, and parental support, and an ability to raise a minimum of \$5,000,000 in contributions;

(e) "Outdoor nature-based child care" means an agency or an agency-offered program that:

(i) Enrolls preschool or school-age children;

(ii) Provides early learning services to the enrolled children in an outdoor natural space approved by the department for not less than four hours per day or fifty percent of the daily program hours, whichever is less; and

(iii) Teaches a nature-based curriculum to enrolled children;

(f) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than 24 hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, and accept only school age children;

(g) Seasonal camps. For purposes of this chapter, "seasonal camp" means a program that:

(i) Operates for three months or less within a period of twelve consecutive months;

(ii) Is engaged primarily in recreational or educational activities conducted on a closely supervised basis; and

(iii) Is owned by any person, organization, association, or corporation, or is operated by a federal, state, county, or municipal government;

(h) Facilities providing child care for periods of less than 24 hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any entity that provides recreational or educational programming for school age children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) A program operated by any unit of local, state, or federal government;

(k) A program located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(l) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(m) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Certificate of parental improvement" means a certificate issued under RCW 74.13.720 to an individual who has a founded finding of physical abuse or negligent treatment or maltreatment, or a court finding that the individual's child was dependent as a result of a finding that the individual abused or neglected their child pursuant to RCW 13.34.030(6)(b).

(5) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(6) "Department" means the department of children, youth, and families.

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(8) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(9) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

(10) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.

(11) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(12) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil monetary penalties pursuant to RCW 43.216.325(3).

(13) "Extended day program" means an early childhood education and assistance program that offers early learning

education for at least 10 hours per day, a minimum of 2,000 hours per year, at least four days per week, and operates year-round.

(14) "Family resource and referral linkage system" means a system that connects families to resources, services, and programs for which families are eligible and uses a database that is developed and maintained in partnership with communities, health care providers, and early learning providers.

(15) "Family resource center" means a unified single point of entry where families, individuals, children, and youth in communities can obtain information, an assessment of needs, referral to, or direct delivery of family services in a manner that is welcoming and strength-based.

(a) A family resource center is designed to meet the needs, cultures, and interests of the communities that the family resource center serves.

(b) Family services may be delivered directly to a family at the family resource center by family resource center staff or by providers who contract with or have provider agreements with the family resource center. Any family resource center that provides family services shall comply with applicable state and federal laws and regulations regarding the delivery of such family services, unless required waivers or exemptions have been granted by the appropriate governing body.

(c) Each family resource center shall have one or more family advocates who screen and assess a family's needs and strengths. If requested by the family, the family advocate shall assist the family with setting its own goals and, together with the family, develop a written plan to pursue the family's goals in working towards a greater level of self-reliance or in attaining self-sufficiency.

(16) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of 1,000 hours per year.

(17) "Inspection report" means a written or digital record or report created by the department that identifies or describes licensing violations or conditions within an agency. An inspection report does not include a child care facility licensing compliance agreement as defined in RCW 43.216.395.

(18) "Low-income child care provider" means a person who administers a child care program that consists of at least 80 percent of children receiving working connections child care subsidy.

(19) "Low-income neighborhood" means a district or community where more than 20 percent of households are below the federal poverty level.

(20) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pend-

ing adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

(21) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

(22) "Nonschool age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

(23) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least 320 hours per year, for a minimum of 30 weeks per year.

(24) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

(25) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(26) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(27) "School age child" means a child who is five years of age through 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

(28) "Secretary" means the secretary of the department.

(29) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program. [2021 c 304 § 2; 2021 c 199 § 501; 2021 c 39 § 4. Prior: 2020 c 270 § 11; 2017 3rd sp.s. c 6 § 201; prior: 2016 c 231 § 1; 2016 c 169 § 3; 2015 3rd sp.s. c 7 § 19; prior: 2013 c 323 § 3; 2013 c 130 § 1; prior: 2011 c 295 § 3; 2011 c 78 § 1; prior: 2007 c 415 § 2; 2007 c 394 § 2; 2006 c 265 § 102. Formerly RCW 43.215.010.]

Reviser's note: This section was amended by 2021 c 199 § 501 and by 2021 c 304 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Intent—Findings—2021 c 39: See note following RCW 74.14C.010.

Effective date—2020 c 270: See note following RCW 74.13.720.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Finding—Intent—2016 c 169: See note following RCW 43.216.735.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Finding—Declaration—2007 c 394: "The legislature finds that education is the single most effective investment that can be made in children, the state, the economy, and the future. A well-educated citizenry is essential both for the preservation of democracy and for enhancing the state's ability to compete in the knowledge-based global economy.

As recommended by Washington learns, the legislature declares that the overarching goal for education in the state is to have a world-class, learner-focused, seamless education system that educates more Washingtonians to the highest levels of educational attainment." [2007 c 394 § 1.]

Additional notes found at www.leg.wa.gov

43.216.015 Department of children, youth, and families—Created—Duties—Agency performance data—Oversight board for children, youth, and families—Powers and restrictions—Stakeholder meetings. (1)(a) The department of children, youth, and families is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 6, Laws of 2017 3rd sp. sess. and such other powers and duties as may be authorized by law. The vision for the department is that Washington state's children and youth grow up safe and healthy—thriving physically, emotionally, and academically, nurtured by family and community.

(b) The department, in partnership with state and local agencies, tribes, and communities, shall protect children and youth from harm and promote healthy development with effective, high quality prevention, intervention, and early education services delivered in an equitable manner. An important role for the department shall be to provide preventative services to help secure and preserve families in crisis. The department shall partner with the federally recognized Indian tribes to develop effective services for youth and families while respecting the sovereignty of those tribes and the government-to-government relationship. Nothing in chapter 6, Laws of 2017 3rd sp. sess. alters the duties, requirements, and policies of the federal Indian child welfare act, 25 U.S.C. Secs. 1901 through 1963, as amended, or the Indian child welfare act, chapter 13.38 RCW.

(2) Beginning July 1, 2018, the department must develop definitions for, work plans to address, and metrics to measure the outcomes for children, youth, and families served by the department and must work with state agencies to ensure services for children, youth, and families are science-based, outcome-driven, data-informed, and collaborative.

(3)(a) Beginning July 1, 2018, the department must establish short and long-term population level outcome measure goals, including metrics regarding reducing disparities by family income, race, and ethnicity in each outcome.

(b) In addition to transparent, frequent reporting of the outcome measures in (c)(i) through (viii) of this subsection, the department must report to the legislature an examination of engagement, resource utilization, and outcomes for clients receiving department services and youth participating in juvenile court alternative programs funded by the department, no less than annually and beginning September 1, 2020. The data in this report must be disaggregated by race, ethnicity, and geography. This report must identify areas of focus to advance equity that will inform department strategies so that all children, youth, and families are thriving. Metrics detailing progress towards eliminating disparities and disproportionality over time must also be included. The report must also include information on department outcome measures, actions taken, progress toward these goals, and plans for the future year.

(c) The outcome measures must include, but are not limited to:

(i) Improving child development and school readiness through voluntary, high quality early learning opportunities as measured by: (A) Increasing the number and proportion of children kindergarten-ready as measured by the Washington kindergarten inventory of developing skills (WAKids) assessment including mathematics; (B) increasing the pro-

portion of children in early learning programs that have achieved the level 3 or higher early achievers quality standard; and (C) increasing the available supply of licensed child care in child care centers, outdoor nature-based child care, and family homes, including providers not receiving state subsidy;

(ii) Preventing child abuse and neglect;

(iii) Improving child and youth safety, permanency, and well-being as measured by: (A) Reducing the number of children entering out-of-home care; (B) reducing a child's length of stay in out-of-home care; (C) reducing maltreatment of youth while in out-of-home care; (D) licensing more foster homes than there are children in foster care; (E) reducing the number of children that reenter out-of-home care within twelve months; (F) increasing the stability of placements for children in out-of-home care; and (G) developing strategies to demonstrate to foster families that their service and involvement is highly valued by the department, as demonstrated by the development of strategies to consult with foster families regarding future placement of a foster child currently placed with a foster family;

(iv) Improving reconciliation of children and youth with their families as measured by: (A) Increasing family reunification; and (B) increasing the number of youth who are reunified with their family of origin;

(v) In collaboration with county juvenile justice programs, improving adolescent outcomes including reducing multisystem involvement and homelessness; and increasing school graduation rates and successful transitions to adulthood for youth involved in the child welfare and juvenile justice systems;

(vi) Reducing future demand for mental health and substance use disorder treatment for youth involved in the child welfare and juvenile justice systems;

(vii) In collaboration with county juvenile justice programs, reducing criminal justice involvement and recidivism as measured by: (A) An increase in the number of youth who successfully complete the terms of diversion or alternative sentencing options; (B) a decrease in the number of youth who commit subsequent crimes; and (C) eliminating the discharge of youth from institutional settings into homelessness; and

(viii) Eliminating racial and ethnic disproportionality and disparities in system involvement and across child and youth outcomes in collaboration with other state agencies.

(4) Beginning July 1, 2018, the department must:

(a) Lead ongoing collaborative work to minimize or eliminate systemic barriers to effective, integrated services in collaboration with state agencies serving children, youth, and families;

(b) Identify necessary improvements and updates to statutes relevant to their responsibilities and proposing legislative changes to the governor no less than biennially;

(c) Help create a data-focused environment in which there are aligned outcomes and shared accountability for achieving those outcomes, with shared, real-time data that is accessible to authorized persons interacting with the family, child, or youth to identify what is needed and which services would be effective;

(d) Lead the provision of state services to adolescents, focusing on key transition points for youth, including exiting

foster care and institutions, and coordinating with the office of homeless youth prevention and protection programs to address the unique needs of homeless youth; and

(e) Create and annually update a list of the rights and responsibilities of foster parents in partnership with foster parent representatives. The list of foster parent rights and responsibilities must be posted on the department's website, provided to individuals participating in a foster parent orientation before licensure, provided to foster parents in writing at the time of licensure, and provided to foster parents applying for license renewal.

(5) The department is accountable to the public. To ensure transparency, beginning December 30, 2018, agency performance data for the services provided by the department, including outcome data for contracted services, must be available to the public, consistent with confidentiality laws, federal protections, and individual rights to privacy. Publicly available data must include budget and funding decisions, performance-based contracting data, including data for contracted services, and performance data on metrics identified in this section. The board must work with the secretary and director to develop the most effective and cost-efficient ways to make department data available to the public, including making this data readily available on the department's website.

(6) The department shall ensure that all new and renewed contracts for services are performance-based.

(7) The department must execute all new and renewed contracts for services in accordance with this section and consistent with RCW 74.13B.020. When contracted services are managed through a network administrator or other third party, the department must execute data-sharing agreements with the entities managing the contracts to track provider performance measures. Contracts with network administrators or other third parties must provide the contract administrator the ability to shift resources from one provider to another, to evaluate individual provider performance, to add or delete services in consultation with the department, and to reinvest savings from increased efficiencies into new or improved services in their catchment area. Whenever possible, contractor performance data must be made available to the public, consistent with confidentiality laws and individual rights to privacy.

(8)(a) The board shall begin its work and call the first meeting of the board on or after July 1, 2018. The board shall immediately assume the duties of the legislative children's oversight committee, as provided for in RCW 74.13.570 and assume the full functions of the board as provided for in this section by July 1, 2019. The office of innovation, alignment, and accountability shall provide quarterly updates regarding the implementation of the department to the board between July 1, 2018, and July 1, 2019.

(b) The office of the family and children's ombuds shall establish the board. The board is authorized for the purpose of monitoring and ensuring that the department achieves the stated outcomes of chapter 6, Laws of 2017 3rd sp. sess., and complies with administrative acts, relevant statutes, rules, and policies pertaining to early learning, juvenile rehabilitation, juvenile justice, and children and family services.

(9)(a) The board shall consist of the following members:

- (i) Two senators and two representatives from the legislature with one member from each major caucus;
- (ii) One nonvoting representative from the governor's office;
- (iii) One subject matter expert in early learning;
- (iv) One subject matter expert in child welfare;
- (v) One subject matter expert in juvenile rehabilitation and justice;
- (vi) One subject matter expert in eliminating disparities in child outcomes by family income and race and ethnicity;
- (vii) One tribal representative from west of the crest of the Cascade mountains;
- (viii) One tribal representative from east of the crest of the Cascade mountains;
- (ix) One current or former foster parent representative;
- (x) One representative of an organization that advocates for the best interest of the child;
- (xi) One parent stakeholder group representative;
- (xii) One law enforcement representative;
- (xiii) One child welfare caseworker representative;
- (xiv) One early childhood learning program implementation practitioner;
- (xv) One current or former foster youth under age twenty-five;
- (xvi) One individual under age twenty-five with current or previous experience with the juvenile justice system;
- (xvii) One physician with experience working with children or youth; and
- (xviii) One judicial representative presiding over child welfare court proceedings or other children's matters.

(b) The senate members of the board shall be appointed by the leaders of the two major caucuses of the senate. The house of representatives members of the board shall be appointed by the leaders of the two major caucuses of the house of representatives. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(c) The remaining board members shall be nominated by the governor, subject to the approval of the appointed legislators by majority vote, and serve four-year terms. When nominating and approving members after July 28, 2019, the governor and appointed legislators must ensure that at least five of the board members reside east of the crest of the Cascade mountains.

(10) The board has the following powers, which may be exercised by majority vote of the board:

- (a) To receive reports of the office of the family and children's ombuds;
- (b) To obtain access to all relevant records in the possession of the office of the family and children's ombuds, except as prohibited by law;
- (c) To select its officers and adoption of rules for orderly procedure;
- (d) To request investigations by the office of the family and children's ombuds of administrative acts;
- (e) To request and receive information, outcome data, documents, materials, and records from the department relating to children and family welfare, juvenile rehabilitation, juvenile justice, and early learning;
- (f) To determine whether the department is achieving the performance measures;

(g) If final review is requested by a licensee, to review whether department licensors appropriately and consistently applied agency rules in inspection reports that do not involve a violation of health and safety standards as defined in RCW 43.216.395 in cases that have already been reviewed by the internal review process described in RCW 43.216.395 with the authority to overturn, change, or uphold such decisions;

(h) To conduct annual reviews of a sample of department contracts for services from a variety of program and service areas to ensure that those contracts are performance-based and to assess the measures included in each contract; and

(i) Upon receipt of records or data from the office of the family and children's ombuds or the department, the board is subject to the same confidentiality restrictions as the office of the family and children's ombuds is under RCW 43.06A.050. The provisions of RCW 43.06A.060 also apply to the board.

(11) The board has general oversight over the performance and policies of the department and shall provide advice and input to the department and the governor.

(12) The board must no less than twice per year convene stakeholder meetings to allow feedback to the board regarding contracting with the department, departmental use of local, state, private, and federal funds, and other matters as relating to carrying out the duties of the department.

(13) The board shall review existing surveys of providers, customers, parent groups, and external services to assess whether the department is effectively delivering services, and shall conduct additional surveys as needed to assess whether the department is effectively delivering services.

(14) The board is subject to the open public meetings act, chapter 42.30 RCW, except to the extent disclosure of records or information is otherwise confidential under state or federal law.

(15) Records or information received by the board is confidential to the extent permitted by state or federal law. This subsection does not create an exception for records covered by RCW 13.50.100.

(16) The board members shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while conducting business of the board when authorized by the board and within resources allocated for this purpose, except appointed legislators who shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(17) The board shall select, by majority vote, an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of the state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the board established in this section.

(18) The board shall maintain a staff not to exceed one full-time equivalent employee. The board-selected executive director of the board is responsible for coordinating staff appointments.

(19) The board shall issue an annual report to the governor and legislature by December 1st of each year with an initial report delivered by December 1, 2019. The report must review the department's progress towards meeting stated performance measures and desired performance outcomes, and

must also include a review of the department's strategic plan, policies, and rules.

(20) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Board" means the oversight board for children, youth, and families established in subsection (8) of this section.

(b) "Director" means the director of the office of innovation, alignment, and accountability.

(c) "Performance-based contract" means results-oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements. [2021 c 304 § 4; (2021 c 304 § 3 expired December 31, 2021). Prior: 2020 c 262 § 1; (2020 c 90 § 9 expired December 31, 2021); 2019 c 429 § 1; prior: 2018 c 58 § 76; 2018 c 51 § 1; 2017 3rd sp.s. c 6 § 101.]

Effective date—2021 c 304 § 4: "Section 4 of this act takes effect December 31, 2021." [2021 c 304 § 32.]

Expiration date—2021 c 304 § 3: "Section 3 of this act expires December 31, 2021." [2021 c 304 § 31.]

Expiration date—2020 c 90 §§ 8 and 9: "Sections 8 and 9 of this act expire December 31, 2021." [2020 c 90 § 11.]

Effective date—2020 c 90: See note following RCW 43.216.580.

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 101 and 103: "Sections 101 and 103 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [July 6, 2017]." [2017 3rd sp.s. c 6 § 824.]

43.216.020 Department duties. (1) The department shall implement state early learning policy and coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide such care;

(f) To apply data already collected comparing the following factors and make recommendations to the legislature in a time frame which corresponds to the child care and development fund federal reporting requirements, regarding working connections subsidy and state-funded preschool rates and compensation models that would attract and retain high quality early learning professionals:

(i) State-funded early learning subsidy rates and market rates of licensed early learning homes, centers, and outdoor nature-based child care;

(ii) Compensation of early learning educators in licensed centers, homes, and outdoor nature-based child care, and early learning teachers at state higher education institutions;

(iii) State-funded preschool program compensation rates and Washington state head start program compensation rates; and

(iv) State-funded preschool program compensation to compensation in similar comprehensive programs in other states;

(g) To administer the early support for infants and toddlers program in RCW 43.216.580, serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA), and develop and adopt rules that establish minimum requirements for the services offered through Part C programs, including allowable allocations and expenditures for transition into Part B of the federal individuals with disabilities education act (IDEA);

(h) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(i) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(j) To work cooperatively and in coordination with the early learning council;

(k) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs;

(l) To develop and adopt rules for administration of the program of early learning established in RCW 43.216.555;

(m) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers; and

(n) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information and provider comments through the internet and other means.

(2) When additional funds are appropriated for the specific purpose of home visiting and parent and caregiver support, the department must reserve at least eighty percent for home visiting services to be deposited into the home visiting services account and up to twenty percent of the new funds for other parent or caregiver support.

(3) Home visiting services must include programs that serve families involved in the child welfare system.

(4) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies

and program decisions affecting their children. [2021 c 304 § 5. Prior: 2020 c 262 § 5; 2020 c 90 § 4; 2017 3rd sp.s. c 6 § 202; 2016 c 57 § 5; 2013 c 323 § 5; prior: 2010 c 233 § 1; 2010 c 232 § 2; 2010 c 231 §6; 2007 c 394 § 5; 2006 c 265 § 103. Formerly RCW 43.215.020.]

Effective date—2020 c 90: See note following RCW 43.216.580.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.216.010.

Additional notes found at www.leg.wa.gov

43.216.022 Annual quality assurance report. The department shall prepare an annual quality assurance report that must, at minimum, include: (1) Performance outcomes regarding health and safety of children in the children's services system; (2) children's length of stay in out-of-home placement from each date of referral; (3) adherence to permanency planning timelines; and (4) the response time on child protective services investigations differentiated by risk level determined at intake. [2019 c 470 § 11.]

43.216.025 Secretary—Appointment—Salary. (1) The executive head and appointing authority of the department is the secretary. The secretary shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The secretary shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of secretary while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate when the governor's nomination for the office of secretary shall be presented.

(2) The secretary may employ staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter and such other duties as may be authorized by law. The employment of such additional staff shall be in accordance with chapter 41.06 RCW, except as otherwise provided. The secretary may delegate any power or duty vested in him or her by chapter 6, Laws of 2017 3rd sp. sess. or other law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW.

(3) The internal affairs of the department are under the control of the secretary in order that the secretary may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the secretary has the complete charge and supervisory powers over the department. The secretary may create the administrative structures in consultation with the office of innovation, alignment, and accountability established in RCW 43.216.035, except as otherwise specified in law, and the secretary may employ personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [2017 3rd sp.s. c 6 § 102; 2006 c 265 § 104. Formerly RCW 43.215.030.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: "Sections 102, 104 through 115, 201 through 227, 301 through 337, 401 through 419, 501 through 513, and 801 through 803 and 805 through 822 of this act take effect July 1, 2018." [2017 3rd sp.s. c 6 § 825.]

43.216.030 Secretary's authority. (1) The secretary or the secretary's designee has the full authority to administer oaths and take testimony, to issue subpoenas requiring the attendance of witnesses before him or her together with all books, memoranda, papers, and other documents, articles, or instruments, and to compel the disclosure by those witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions are governed by RCW 34.05.588(2).

(4) When a judicially approved subpoena is required by law, the secretary or the secretary's designee may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or in the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(5) When an application under subsection (4) of this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. When a judicially approved subpoena is required by law, an order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(6) The secretary or the secretary's designee may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2017 3rd sp.s. c 6 § 106.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.035 Office of innovation, alignment, and accountability—Duties and focus. (1) Beginning July 1, 2018, the office of innovation, alignment, and accountability shall have a director, appointed by the secretary, who shall set the agenda and oversee the office, who reports to the secretary. The secretary shall ensure that the leadership and staff of the office do not have responsibility for service delivery but are wholly dedicated to directing and implementing the innovation, alignment, integration, collaboration, systemic reform work, and building external partnerships for which the office is responsible.

(2) The primary duties and focus of the office are on continuous improvement and includes the functions in this subsection:

(a) To review and recommend implementation of advancements in research;

(b) To work with other state government agencies and tribal governments to align and measure outcomes across state agencies and state-funded agencies serving children, youth, and families including, but not limited to, the use of evidence-based and research-based practices and contracting;

(c) To work with other state government agencies, tribal governments, partner agencies, and state-funded organizations on the use of data-driven, research-based interventions that effectively intervene in the lives of at-risk young people and align systems that serve children, youth, and their families;

(d) To develop approaches for integrated real-time data sharing, aligned outcomes, and collective accountability across state government agencies to the public;

(e) To conduct quality assurance and evaluation of programs and services within the department;

(f) To lead partnerships with the community, research and teaching institutions, philanthropic organizations, and nonprofit organizations;

(g) To lead collaboration with courts, tribal courts and tribal attorneys, attorneys, court-appointed special advocates, and guardians ad litem to align and integrate the work of the department with those involved in decision making in child welfare and juvenile justice cases;

(h) To produce, in collaboration with key stakeholders, an annual work plan that includes priorities for ongoing policy, practice, and system reform, tracking, and reporting out on the performance of department reforms;

(i) To appoint members of an external stakeholder committee who value racial and ethnic diversity and that includes representatives from a philanthropic organization, research entity representatives, representatives from the business community, one or more parent representatives, youth representatives, tribal representatives, representatives from communities of color, foster parent representatives, representatives from an organization that advocates for the best interest of the child, and community-based providers, who will advise the office on priorities for practice, policy, and system reform and on effective management policies, development of appropriate organizational culture, external partnerships, knowledge of best practices, and leveraging additional resources to carry out the duties of the department;

(j) To provide a report to the governor and the appropriate committees of the legislature by November 1, 2018, that includes recommendations regarding whether the juvenile rehabilitation division of the department of social and health services should be integrated into the department of children, youth, and families, and if so, what the appropriate timing and process is for integration of the juvenile rehabilitation division into the department of children, youth, and families;

(k) To provide a report to the governor and the appropriate committees of the legislature by November 1, 2018, that includes:

(i) A review of the current process for addressing foster parent complaints and concerns through the department and through the office of the family and children's ombuds estab-

lished in chapter 43.06A RCW that includes an examination of any deficiencies of the current system; and

(ii) Recommendations for expanding, modifying, and enhancing the current system for addressing individual foster parent complaints to improve child welfare, the experience of foster parents, and the overall functioning of the child welfare system; and

(l) To provide a report to the governor and the appropriate committees of the legislature by November 1, 2018, that includes recommendations regarding whether the office of homeless youth prevention and protection programs in the department of commerce should be integrated into the department, and the process for that integration if recommended. [2017 3rd sp.s. c 6 § 104.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.040 Family services and programs—Administration. The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [2017 3rd sp.s. c 6 § 107.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.045 Advisory committees or councils—Travel expenses. The secretary may appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may also appoint statewide committees or councils on such subject matters as are or come within the department's responsibilities. The committees or councils shall be constituted as required by federal law or as the secretary may determine.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2018 c 58 § 43; 2006 c 265 § 106. Formerly RCW 43.215.050.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.050 Evaluation and research materials and data on private nonprofit group homes—Availability. The secretary shall make all of the department's evaluation and research materials and data on private nonprofit group homes available to group home contractors. The department may delete any information from the materials that identifies a specific client or contractor, other than the contractor requesting the materials. [2017 3rd sp.s. c 6 § 108.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.055 Federal and state cooperation—Rules—Construction. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or

provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. [2006 c 265 § 107. Formerly RCW 43.215.060.]

43.216.060 Policies to support children of incarcerated parents. (1)(a) The secretary shall review current department policies and assess the adequacy and availability of programs targeted at persons who receive assistance who are the children and families of a person who is incarcerated in a department of corrections facility. Great attention shall be focused on programs and policies affecting foster youth who have a parent who is incarcerated.

(b) The secretary shall adopt policies that support the children of incarcerated parents and meet their needs with the goal of facilitating normal child development, while reducing intergenerational incarceration.

(2) The secretary shall conduct the following activities to assist in implementing the requirements of subsection (1) of this section:

(a) Gather information and data on the recipients of assistance who are the children and families of inmates incarcerated in department of corrections facilities; and

(b) Participate in the children of incarcerated parents advisory committee and report information obtained under this section to the advisory committee. [2017 3rd sp.s. c 6 § 203; 2007 c 384 § 4. Formerly RCW 43.215.065.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Intent—Finding—2007 c 384: See note following RCW 72.09.495.

43.216.065 Private-public partnership—Secretary's duties. (1) In addition to other duties under this chapter, the secretary shall actively participate in a nongovernmental private-public partnership focused on supporting government's investments in early learning and ensuring that every child in the state is prepared to succeed in school and in life. Except for licensing as required by Washington state law and to the extent permitted by federal law, the secretary shall grant waivers from the rules of state agencies for the operation of early learning programs requested by the nongovernmental private-public partnership to allow for flexibility to pursue market-based approaches to achieving the best outcomes for children and families.

(2) In addition to other powers granted to the secretary, the secretary may:

(a) Enter into contracts on behalf of the department to carry out the purposes of this chapter;

(b) Accept gifts, grants, or other funds for the purposes of this chapter; and

(c) Adopt, in accordance with chapter 34.05 RCW, rules necessary to implement this chapter, including rules governing child day care and early learning programs under this chapter. This section does not expand the rule-making authority of the secretary beyond that necessary to implement and administer programs and services existing July 1, 2006, as transferred to the department of early learning under section 501, chapter 265, Laws of 2006. The rule-making

authority does not include any authority to set mandatory curriculum or establish what must be taught in child day care centers or by family day care providers. [2018 c 58 § 13; 2017 3rd sp.s. c 6 § 204; 2006 c 265 § 108. Formerly RCW 43.215.070.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.070 Reports to the governor and legislature.

Two years after the implementation of the department's early learning program, and every two years thereafter by July 1st, the department shall submit to the governor and the legislature a report measuring the effectiveness of its programs in improving early childhood education. The first report shall include program objectives and identified valid performance measures for evaluating progress toward achieving the objectives, as well as a plan for commissioning a longitudinal study comparing the kindergarten readiness of children participating in the department's programs with the readiness of other children, using nationally accepted testing and assessment methods. Such comparison shall include, but not be limited to, achievement as children of both groups progress through the K-12 system and identify year-to-year changes in achievement, if any, in later years of elementary, middle school, and high school education. [2006 c 265 § 109. Formerly RCW 43.215.080.]

43.216.075 Early learning advisory council—Policy development and implementation—Early achievers review subcommittee. (1) The early learning advisory council is established to advise the department on statewide early learning issues that contribute to the ongoing efforts of building a comprehensive system of quality early learning programs and services for Washington's young children and families.

(2) The council shall work in conjunction with the department to:

(a) Assist in policy development and implementation that promotes alignment of private and public sector actions, objectives, and resources, with the overall goal of promoting school readiness for all children;

(b) Provide recommendations annually to the governor and the legislature, beginning August 31, 2022, regarding the phased implementation of strategies and priorities identified in RCW 43.216.772;

(c) Maintain a focus on racial equity and inclusion in order to dismantle systemic racism at its core and contribute to statewide efforts to break the cycle of intergenerational poverty;

(d) Maintain a focus on inclusionary practices for children with disabilities;

(e) Partner with nonprofit organizations to collect and analyze data and measure progress; and

(f) Assist the department in monitoring and ensuring that the investments funded by the fair start for kids account created in RCW 43.216.770 are designed to support the following objectives:

(i) Advance racial equity and strengthen families by recognizing and responding to the growing diversity of our state's population;

(ii) Promote access to affordable, high quality child care and early learning opportunities for all families, paying particular attention to the needs of rural and other underserved communities;

(iii) Promote kindergarten readiness by enhancing child development, including development of social-emotional skills, and eliminating exclusionary admissions practices and disproportionate removals in child care and early learning programs; and

(iv) Contribute to efforts to strengthen and grow our state's economy by supporting working parents as well as stabilizing and supporting the child care and early learning workforce.

(3) In collaboration with the council, the department shall consult with its advisory groups and other interested stakeholders and shall submit a biennial report to the governor and legislature describing how the investments funded by the fair start for kids act have impacted the policy objectives stated in subsection (2)(f) of this section. The first report under this section is due September 15, 2023. The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall include critical partners in service delivery and reflect regional, racial, and cultural diversity to adequately represent the interests of all children and families in the state.

(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of members essential to coordinating services statewide prenatal through age 12, as follows:

(a) In addition to being staffed and supported by the department, the governor shall appoint one representative from each of the following: The department of commerce and the department of health;

(b) One representative from the student achievement council, to be appointed by the student achievement council;

(c) The military spouse liaison created within the department of veterans affairs under RCW 43.60A.245;

(d) One representative from the state board for community and technical colleges, to be appointed by the state board for community and technical colleges;

(e) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(f) Two members of the house of representatives, one from each caucus, to be appointed by the speaker of the house of representatives and two members of the senate, one from each caucus, to be appointed by the majority leader in the senate and the minority leader in the senate;

(g) Two parents, one of whom serves on the department's parent advisory group, to be appointed by the parent advisory group;

(h) One representative of the private-public partnership created in RCW 43.216.065, to be appointed by the partnership board;

(i) One representative from the developmental disabilities community representing children and families involved in part C of the federal individuals with disabilities education act and one representative from the developmental disabilities community representing children and families involved in part B of the federal individuals with disabilities education act;

(j) Two representatives from early learning regional coalitions;

(k) Up to five representatives of underserved communities who have a special expertise or interest in high quality early learning, one to be appointed by each of the following commissions:

(i) The Washington state commission on Asian Pacific American affairs established under chapter 43.117 RCW;

(ii) The Washington state commission on African American affairs established under chapter 43.113 RCW;

(iii) The Washington state commission on Hispanic affairs established under chapter 43.115 RCW;

(iv) The Washington state women's commission established under chapter 43.119 RCW; and

(v) The Washington state office of equity established under chapter 43.06D RCW;

(l) Two representatives designated by sovereign tribal governments, one of whom must be a representative of a tribal early childhood education assistance program or head start program;

(m) One representative from the Washington federation of independent schools;

(n) One representative from the Washington library association;

(o) One representative from a statewide advocacy coalition of organizations that focuses on early learning;

(p) One representative from an association representing statewide business interests, to be appointed by the association and one representative from a regional business coalition;

(q) One representative of an advocacy organization for immigrants and refugees;

(r) One representative of an organization advocating for expanded learning opportunities and school-age child care programs;

(s) One representative from the largest union representing child care providers;

(t) A representative of a head start, early head start, or migrant and seasonal head start program, to be appointed by the head start collaboration office;

(u) A representative of educational service districts, to be appointed by a statewide association of educational service district board members;

(v) A provider responsible for programs under section 619 of the federal individuals with disabilities education act, to be appointed by the superintendent of public instruction;

(w) A representative of the state agency responsible for part C of the federal individuals with disabilities education act, to be appointed by the department;

(x) A representative of the early childhood education and assistance program, to be appointed by an association representing early childhood education and assistance programs;

(y) A representative of licensed family home providers, to be appointed by the largest union representing child care providers;

(z) A representative of child care centers, to be appointed by an association representing child care centers;

(aa) A representative from the home visiting advisory committee established in RCW 43.216.130, to be appointed by the committee;

(bb) An infant or early childhood mental health expert, to be appointed by the Barnard center for infant and early childhood mental health at the University of Washington;

(cc) A family, friend, and neighbor caregiver, to be appointed by the largest union representing child care providers;

(dd) A representative from prenatal to three services;

(ee) A pediatrician, to be appointed by the state chapter of the American academy of pediatrics; and

(ff) A representative of the statewide child care resource and referral organization, to be appointed by the statewide child care resource and referral organization.

(6) The council shall be cochaired by two members, to be elected by the council for two-year terms and not more than one cochair may represent a state agency.

(7) At the direction of the cochairs, the council may convene advisory groups, such as a parent caucus, to evaluate specific issues and report related findings and recommendations to the full council.

(8) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

(9) Each member of the council shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the council in accordance with RCW 43.03.050 and 43.03.060.

(10)(a) The council shall convene an early achievers review subcommittee to provide feedback and guidance on strategies to improve the quality of instruction and environment for early learning and provide input and recommendations on the implementation and refinement of the early achievers program. The subcommittee shall at a minimum provide feedback and guidance to the department and the council on the following:

(i) Adequacy of data collection procedures;

(ii) Coaching and technical assistance standards;

(iii) Progress in reducing barriers to participation for low-income providers and providers from diverse cultural backgrounds, including a review of the early achievers program's rating tools, quality standard areas, and components, and how they are applied;

(iv) Strategies in response to data on the effectiveness of early achievers program standards in relation to providers and children from diverse cultural backgrounds;

(v) Status of the life circumstance exemption protocols;

(vi) Analysis of early achievers program data trends; and

(vii) Other relevant early learning data including progress in serving students with disabilities ages birth to five and least restrictive environment data.

(b) The subcommittee must include consideration of cultural linguistic responsiveness when analyzing the areas for review required by (a) of this subsection.

(c) The subcommittee shall include representatives from child care centers, family child care, the early childhood education and assistance program, contractors for early achievers program technical assistance and coaching, tribal governments, the organization responsible for conducting early achievers program ratings, and parents of children participating in early learning programs, including working connections child care and early childhood education and assistance programs. The subcommittee shall include representatives from diverse cultural and linguistic backgrounds.

(11)(a) The council shall convene a temporary licensing subcommittee to provide feedback and recommendations on improvement to the statewide licensing process.

(b) Members of the subcommittee must include two representatives of the department, two child care providers, and two parents of children in child care. One child care provider and one parent representative must reside east of the crest of the Cascade mountains and one child care provider and one parent representative must reside west of the crest of the Cascade mountains.

(c) The subcommittee shall:

(i) Examine strategies to increase the number of licensed child care providers in the state, including meeting with prospective licensees to explain the licensure requirements and inspect and provide feedback on the physical space that is contemplated for licensure;

(ii) Develop model policies for licensed child care providers to implement licensing standards including, but not limited to, completing the child care and early learning licensing guidebook, to be made available to support providers with compliance; and

(iii) Develop recommendations regarding incentives and financial supports to help prospective providers navigate the licensing process.

(d) The subcommittee shall provide feedback and recommendations to the department of children, youth, and families pursuant to this subsection (11) by December 1, 2022.

(12) The department shall provide staff support to the council. [2021 c 199 § 104; 2020 c 262 § 4; 2017 c 171 § 1; 2015 3rd sp.s. c 7 § 16; 2012 c 229 § 589; 2011 c 177 § 2. Prior: 2010 c 234 § 3; 2010 c 12 § 1; 2007 c 394 § 3. Formerly RCW 43.215.090.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Finding—Purpose—2011 c 177: "The legislature finds that to fully comply with requirements in section 642B of the federal head start act, 42 U.S.C. Sec. 9837b, regarding state advisory council membership, Washington must amend existing law to reflect necessary changes in early learning advisory council membership in accordance with the federal requirement.

Accordingly, the purpose of this act is to specify four of the governor's appointees as permanent members on the early learning advisory council to comply with state advisory council requirements as follows: The head start state collaboration office director or a designee; a representative of a head start, early head start, migrant/seasonal head start, or tribal head start program; a representative of a local education agency; and a representative of

the state agency responsible for programs under section 619 or part C of the federal individuals with disabilities education act. This act also revises the categories of groups from which the governor may appoint additional representatives as members of the council." [2011 c 177 § 1.]

Intent—2010 c 234: "The department of early learning, the superintendent of public instruction, and thrive by five's joint early learning recommendations to the governor, and the quality education council's January 2010 recommendations to the legislature both suggested that a voluntary program of early learning should be included within the overall program of basic education. The legislature intends to examine these recommendations and Attorney General Opinion Number 8 (2009) through the development of a working group to identify and recommend a comprehensive plan." [2010 c 234 § 1.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.216.010.

43.216.080 Integration with other entities. (1) The foundation of quality in the early care and education system in Washington is the quality rating and improvement system entitled the early achievers program. In an effort to build on the existing quality framework, enhance access to quality care for children, and strengthen the entire early care and education systems in the state, it is important to integrate the efforts of state and local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations.

(2) Local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations are encouraged to collaborate with the department when establishing and strengthening early learning programs for residents.

(3) Local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations may contribute funds to the department for the following purposes:

(a) Initial investments to build capacity and quality in local early care and education programming;

(b) Reductions in copayments charged to parents or caregivers;

(c) To expand access and eligibility in the early childhood education and assistance program.

(4) Funds contributed to the department by local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations must be deposited in the early start account established in RCW 43.216.165.

(5) Children enrolled in the early childhood education and assistance program with funds contributed in accordance with subsection (3)(c) of this section are not considered to be eligible children as defined in RCW 43.216.505 and are not considered to be part of the state-funded entitlement required in RCW 43.216.556. [2019 c 408 § 10; 2017 c 178 § 2; 2015 3rd sp.s. c 7 § 15. Formerly RCW 43.215.099.]

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Intent—2017 c 178: "The legislature recognizes that local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations play an important role in strengthening the early care and education systems in the state. The legislature acknowledges that these entities may face barriers to investing in early care and education programs. The legislature intends to create a local pathway to high quality early learning to help these entities understand how they can use additional local and private funds with existing funds to expand access for existing programs. The legislature intends for this local pathway to reduce barriers and increase efficiency to provide more high quality early learning opportunities." [2017 c 178 § 1.]

(2022 Ed.)

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.085 Early achievers program—Quality rating and improvement system. (1) The department, in collaboration with tribal governments and community and statewide partners, shall implement a quality rating and improvement system, called the early achievers program. The early achievers program provides a foundation of quality for the early care and education system. The early achievers program is applicable to licensed or certified child care centers, family home child care, outdoor nature-based child care, and early learning programs such as working connections child care and early childhood education and assistance programs.

(2) The objectives of the early achievers program are to:

(a) Improve short-term and long-term educational outcomes for children as measured by assessments including, but not limited to, the Washington kindergarten inventory of developing skills in RCW 28A.655.080;

(b) Give parents clear and easily accessible information about the quality of child care and early education programs;

(c) Support improvement in early learning and child care programs throughout the state;

(d) Increase the readiness of children for school;

(e) Close the disparities in access to quality care;

(f) Provide professional development and coaching opportunities to early child care and education providers; and

(g) Establish a common set of expectations and standards that define, measure, and improve the quality of early learning and child care settings.

(3)(a) Licensed or certified child care centers, family home child care, and outdoor nature-based child care, serving nonschool-age children and receiving state subsidy payments, must participate in the early achievers program by the required deadlines established in RCW 43.216.135.

(b) Approved early childhood education and assistance program providers receiving state-funded support must participate in the early achievers program by the required deadlines established in RCW 43.216.515.

(c) Participation in the early achievers program is voluntary for:

(i) Licensed or certified child care centers, family home child care, and outdoor nature-based child care, not receiving state subsidy payments; and

(ii) Early learning programs not receiving state funds.

(d) School-age child care providers are exempt from participating in the early achievers program. By July 1, 2017, the department and the office of the superintendent of public instruction shall jointly design a plan to incorporate school-age child care providers into the early achievers program or other appropriate quality improvement system. To test implementation of the early achievers system for school-age child care providers the department and the office of the superintendent of public instruction shall implement a pilot program.

(4)(a) There are five primary levels in the early achievers program.

(b) In addition to the primary levels, the department must establish an intermediate level that is between level 3 and level 4 and serves to assist participants in transitioning to level 4.

(c) Participants are expected to actively engage and continually advance within the program.

(5) The department has the authority to determine the rating cycle for the early achievers program. The department shall streamline and eliminate duplication between early achievers standards and state child care rules in order to reduce costs associated with the early achievers rating cycle and child care licensing.

(a) Early achievers program participants may request to be rated at any time after the completion of all level 2 activities.

(b) The department shall provide an early achievers program participant an update on the participant's progress toward completing level 2 activities after the participant has been enrolled in the early achievers program for fifteen months.

(c) The first rating is free for early achievers program participants.

(d) Each subsequent rating within the established rating cycle is free for early achievers program participants.

(6)(a) Early achievers program participants may request to be rerated outside the established rating cycle. A rerating shall reset the rating cycle timeline for participants.

(b) The department may charge a fee for optional rerating requests made by program participants that are outside the established rating cycle.

(c) Fees charged are based on, but may not exceed, the cost to the department for activities associated with the early achievers program.

(7)(a) The department must create a single source of information for parents and caregivers to access details on a provider's early achievers program rating level, licensing history, and other indicators of quality and safety that will help parents and caregivers make informed choices. The licensing history that the department must provide for parents and caregivers pursuant to this subsection shall only include license suspension, surrender, revocation, denial, stayed suspension, or reinstatement. No unfounded child abuse or neglect reports may be provided to parents and caregivers pursuant to this subsection.

(b) The department shall publish to the department's website, or offer a link on its website to, the following information:

(i) Early achievers program rating levels 1 through 5 for all child care programs that receive state subsidy, early childhood education and assistance programs, and federal head start programs in Washington; and

(ii) New early achievers program ratings within thirty days after a program becomes licensed or certified, or receives a rating.

(c) The early achievers program rating levels shall be published in a manner that is easily accessible to parents and caregivers and takes into account the linguistic needs of parents and caregivers.

(d) The department must publish early achievers program rating levels for child care programs that do not receive state subsidy but have voluntarily joined the early achievers program.

(e) Early achievers program participants who have published rating levels on the department's website or on a link on the department's website may include a brief description

of their program, contingent upon the review and approval by the department, as determined by established marketing standards.

(8)(a) The department shall create a professional development pathway for early achievers program participants to obtain a high school diploma or equivalency or higher education credential in early childhood education, early childhood studies, child development, or an academic field related to early care and education.

(b) The professional development pathway must include opportunities for scholarships and grants to assist early achievers program participants with the costs associated with obtaining an educational degree.

(c) The department shall address cultural and linguistic diversity when developing the professional development pathway.

(9) The early achievers quality improvement awards shall be reserved for participants offering programs to an enrollment population consisting of at least five percent of children receiving a state subsidy.

(10) In collaboration with tribal governments, community and statewide partners, and the early achievers review subcommittee created in RCW 43.216.075, the department shall develop a protocol for granting early achievers program participants an extension in meeting rating level requirement timelines outlined for the working connections child care program and the early childhood education and assistance program.

(a) The department may grant extensions only under exceptional circumstances, such as when early achievers program participants experience an unexpected life circumstance.

(b) Extensions shall not exceed six months, and early achievers program participants are only eligible for one extension in meeting rating level requirement timelines.

(c) Extensions may only be granted to early achievers program participants who have demonstrated engagement in the early achievers program.

(11)(a) The department shall accept national accreditation that meets the requirements of this subsection (11) as a qualification for the early achievers program ratings.

(b) Each national accreditation agency will be allowed to submit its most current standards of accreditation to establish potential credit earned in the early achievers program. The department shall grant credit to accreditation bodies that can demonstrate that their standards meet or exceed the current early achievers program standards. By December 1, 2019, and subject to the availability of amounts appropriated for this specific purpose, the department must submit a detailed plan to the governor and the legislature to implement a robust cross-accreditation process with multiple pathways that allows a provider to earn equivalent early achievers credit resulting from accreditation by high quality national organizations.

(c) Licensed child care centers, child care home providers, and outdoor nature-based child care must meet national accreditation standards approved by the department for the early achievers program in order to be granted credit for the early achievers program standards. Eligibility for the early achievers program is not subject to bargaining, mediation, or

interest arbitration under RCW 41.56.028, consistent with the legislative reservation of rights under RCW 41.56.028(4)(d).

(12) The department shall explore the use of alternative quality assessment tools that meet the culturally specific needs of the federally recognized tribes in the state of Washington.

(13) A child care or early learning program that is operated by a federally recognized tribe and receives state funds shall participate in the early achievers program. The tribe may choose to participate through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty. The interlocal agreement must provide that:

(a) Tribal child care facilities and early learning programs may volunteer, but are not required, to be licensed by the department;

(b) Tribal child care facilities and early learning programs are not required to have their early achievers program rating level published to the department's website or through a link on the department's website; and

(c) Tribal child care facilities and early learning programs must provide notification to parents or guardians who apply for or have been admitted into their program that early achievers program rating level information is available and provide the parents or guardians with the program's early achievers program rating level upon request.

(14) The department shall consult with the early achievers review subcommittee on all substantial policy changes to the early achievers program.

(15) Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects or limits the legislature's authority to make programmatic modifications to licensed child care and early learning programs under RCW 41.56.028(4)(d). [2021 c 304 § 6; 2019 c 369 § 2; 2017 3rd sp.s. c 6 § 113; 2015 3rd sp.s. c 7 § 2; 2013 c 323 § 6; 2007 c 394 § 4. Formerly RCW 43.215.100.]

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Finding—Intent—2015 3rd sp.s. c 7: "(1) The legislature finds that quality early care and education builds the foundation for a child's success in school and in life. The legislature acknowledges that a quality framework is necessary for the early care and education system in Washington. The legislature recognizes that empirical evidence supports the conclusion that high quality programs consistently yield more positive outcomes for children, with the strongest positive impacts on the most vulnerable children. The legislature acknowledges that critical developmental windows exist in early childhood, and low quality child care has damaging effects for children. The legislature further understands that the proper dosage, duration of programming, and stability of care are critical to enhancing program quality and improving child outcomes. The legislature acknowledges that the early care and education system should strive to address the needs of Washington's culturally and linguistically diverse populations. The legislature understands that parental choice and provider diversity are guiding principles for early learning programs.

(2) The legislature intends to prioritize the integration of child care and preschool in an effort to promote full day programming. The legislature further intends to reward quality and create incentives for providers to participate in a quality rating and improvement system that will also provide valuable information to parents regarding the quality of care available in their communities." [2015 3rd sp.s. c 7 § 1.]

(2022 Ed.)

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.216.010.

43.216.087 Early achievers program—Participation of culturally diverse and low-income center, family home, and outdoor nature-based child care providers. (1)(a) The department shall, in collaboration with tribal governments and community and statewide partners, implement a protocol to maximize and encourage participation in the early achievers program for culturally diverse and low-income center, family home, and outdoor nature-based child care providers. Amounts appropriated for the encouragement of culturally diverse and low-income center, family home, and outdoor nature-based child care provider participation shall be appropriated separately from the other funds appropriated for the department, are the only funds that may be used for the protocol, and may not be used for any other purposes. Funds appropriated for the protocol shall be considered an ongoing program for purposes of future departmental budget requests.

(b) The department shall prioritize the resources authorized in this section to assist providers in the early achievers program to help them reach a rating of level 3 or higher wherever access to subsidized care is at risk.

(2) The protocol should address barriers to early achievers program participation and include at a minimum the following:

(a) The creation of a substitute pool;

(b) The development of needs-based grants for providers in the early achievers program who demonstrate a need for assistance to improve program quality. Needs-based grants may be used for environmental improvements of early learning facilities; purchasing curriculum development, instructional materials, supplies, and equipment; and focused infant-toddler improvements. Priority for the needs-based grants shall be given to culturally diverse and low-income providers;

(c) The development of materials and assessments in a timely manner, and to the extent feasible, in the provider and family home languages; and

(d) The development of flexibility in technical assistance and coaching structures to provide differentiated types and amounts of support to providers based on individual need and cultural context. [2021 c 304 § 7; 2019 c 369 § 5; 2015 3rd sp.s. c 7 § 5. Formerly RCW 43.215.101.]

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.089 Early achievers program—Final report—Mitigation plan for areas not achieving required rating levels—Data availability—Reports. (1) By December 15, 2020, the department, in consultation with the statewide child care resource and referral network, and the early achievers review subcommittee of the early learning advisory council, shall submit, in compliance with RCW 43.01.036, a final report to the governor and the legislature regarding providers' progress in the early achievers program. The report must include the following elements:

(a) The number, and relative percentage, of family child care, outdoor nature-based child care, and center providers

who have enrolled in the early achievers program and who have:

- (i) Completed the level 2 activities;
- (ii) Completed rating readiness consultation and are waiting to be rated;
- (iii) Achieved the required rating level to remain eligible for state-funded support under the early childhood education and assistance program or a subsidy under the working connections child care subsidy program;
- (iv) Not achieved the required rating level initially but qualified for and are working through intensive targeted support in preparation for a partial rerate outside the standard rating cycle;
- (v) Not achieved the required rating level initially and engaged in remedial activities before successfully achieving the required rating level;
- (vi) Not achieved the required rating level after completing remedial activities; or
- (vii) Received an extension from the department based on exceptional circumstances pursuant to RCW 43.216.085;
- (b) A review of the services available to providers and children from diverse racial, ethnic, and cultural backgrounds;
- (c) An examination of the effectiveness of efforts to increase successful participation by providers serving children and families from diverse racial, ethnic, and cultural backgrounds and providers who serve children from low-income households;
- (d) A description of the primary obstacles and challenges faced by providers who have not achieved the required rating level to remain eligible to receive:
 - (i) A subsidy under the working connections child care program; or
 - (ii) State-funded support under the early childhood education and assistance program;
- (e) A summary of the types of exceptional circumstances for which the department has granted an extension pursuant to RCW 43.216.085;
- (f) The average amount of time required for providers to achieve local level milestones within each level of the early achievers program;
- (g) To the extent data is available, an analysis of the distribution of early achievers program-rated facilities in relation to child and provider demographics, including but not limited to race and ethnicity, home language, and geographical location;
- (h) Recommendations for improving access for children from diverse racial, ethnic, and cultural backgrounds to providers rated at a level 3 or higher in the early achievers program;
 - (i) Recommendations for improving the early achievers program standards;
 - (j) An analysis of any impact from quality strengthening efforts on the availability and quality of infant and toddler care;
 - (k) The number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding;
 - (l) An analysis of the impact of increased regulations on the cost of child care; and

(m) A description of the early childhood education and assistance program implementation to include the following:

- (i) Progress on early childhood education and assistance program implementation as required pursuant to RCW 43.216.515, 43.216.525, and 43.216.555;
- (ii) An examination of the regional distribution of new preschool programming by school district;
- (iii) An analysis of the impact of preschool expansion on low-income neighborhoods and communities;
- (iv) Recommendations to address any identified barriers to access to quality preschool for children living in low-income neighborhoods;
- (v) An analysis of any impact of extended day early care and education opportunities directives;
- (vi) An examination of any identified barriers for providers to offer extended day early care and education opportunities;
- (vii) An analysis of the demand for full-day programming for early childhood education and assistance program providers required under RCW 43.216.515; and
- (viii) To the extent data is available, an analysis of the racial, ethnic, and cultural diversity of early childhood education and assistance program providers and participants.
- (2) The elements required to be reported under subsection (1)(a) of this section must be reported at the county level, and for those counties with a population of five hundred thousand and higher, the data must be reported at the zip code level.
 - (3) If, based on information in an annual report submitted in 2018 or later under this section, fifteen percent or more of the licensed or contracted providers who are participating in the early achievers program in a county or in a single zip code have not achieved the rating levels under RCW 43.216.135 and 43.216.515, the department must:
 - (a) Analyze the reasons providers in the affected counties or zip codes have not attained the required rating levels; and
 - (b) Develop a plan to mitigate the effect on the children and families served by these providers. The plan must be submitted to the legislature as part of the final report described in subsection (1) of this section along with any recommendations for legislative action to address the needs of the providers and the children and families they serve.
 - (4)(a) Beginning December 1, 2020, the department, in collaboration with the statewide child care resource and referral network, shall make available on its public website, in a consumer-friendly format, the following elements:
 - (i) The number, and relative percentage, of family child care and center child care providers who have enrolled in the early achievers program and who have:
 - (A) Submitted their request for on-site evaluation and are waiting to be rated; and
 - (B) Achieved the required rating level to remain eligible for state-funded support under the early childhood education and assistance program or a subsidy under the working connections child care subsidy program;
 - (ii) The distribution of early childhood education and assistance program programming by school district; and
 - (iii) Indicators of supply and demand at the local level, as well as identification of regions or areas in which there are

insufficient numbers of child care facilities using nationally developed methodology.

(b) The elements required to be made available under (a)(i) of this subsection (4) must be made available at the county level, and for those counties with a population of five hundred thousand and higher, the data must be reported at the zip code level.

(c) To the extent data are available, the elements required to be reported under (a)(ii) and (iii) of this subsection (4) must be updated at a minimum of a quarterly basis on the department's public website.

(d) If in any individual state fiscal year, based on information reported in (a)(ii) and (iii) of this subsection (4), fifteen percent or more of the licensed or contracted providers who are participating in the early achievers program in a county or in a single zip code have not achieved the rating levels required under RCW 43.216.135 and 43.216.515, the department must:

(i) Analyze the reasons providers in the affected counties or zip codes have not attained the required rating levels; and

(ii) Develop a plan to mitigate the effect on the children and families served by these providers. The plan must be submitted to the legislature by November 1st of the year following the state fiscal year in question, along with any recommendations for legislative action to address the needs of the providers and the children and families they serve.

(5) Beginning September 15, 2021, and each odd-numbered year thereafter, the department shall submit a report to the governor and the legislature outlining the availability and quality of services available to early learning providers and children from diverse racial, ethnic, and cultural backgrounds and from low-income neighborhoods and communities. The report must include the following elements:

(a) To the extent data is available, an analysis of the racial, ethnic, and linguistic diversity of early childhood education and assistance program providers and participants, and the providers and participants of working connections child care;

(b) A review of the services available to providers and children from diverse racial, ethnic, and cultural backgrounds;

(c) An examination of the effectiveness of efforts to increase and maintain successful participation by providers serving children and families from diverse racial, ethnic, and linguistic backgrounds and providers who serve children from low-income households;

(d) To the extent data is available, the distribution of early achievers program-rated facilities by child and provider demographics, including but not limited to race and ethnicity, home language, and geographical location;

(e) Recommendations for improving and maintaining access for children from diverse racial, ethnic, and cultural backgrounds to providers rated at a level 3 or higher in the early achievers program;

(f) Recommendations to address any identified barriers to access to high quality preschool for children living in low-income neighborhoods;

(g) An examination of expulsion rates of children from diverse racial, ethnic, and diverse cultural backgrounds and from low-income neighborhoods and communities; and

(h) An analysis of how early learning providers and families from diverse racial, ethnic, and cultural backgrounds and from low-income neighborhoods and communities have influenced or participated in the department's early learning plans and implementation strategies.

(6) Beginning September 15, 2022, and each even-numbered year thereafter, the department shall submit a report to the governor and the legislature on the availability of supports to providers and their effectiveness at improving quality. The report must include the following elements:

(a) An analysis of the effectiveness of recruitment efforts for new and returning high quality early learning providers and programs;

(b) An analysis of the effectiveness of quality improvement tools and incentives on the retention and quality improvement of early learning professionals;

(c) An analysis of the supply of high quality subsidized early learning. This analysis must include:

(i) An examination of the trend in supply of early learning providers and workers;

(ii) A description of the primary obstacles and challenges faced by providers who have not achieved the required early achievers rating level to remain eligible to receive a subsidy under the working connections child care program or state-funded support under the early childhood education and assistance program;

(iii) The number, and relative percentage, of family child care and center providers who have enrolled in the early achievers program and who have:

(A) Not achieved the required rating level initially but qualified for and are working through intensive targeted support in preparation for a partial rerate outside the standard rating cycle;

(B) Not achieved the required rating level initially and engaged in remedial activities before successfully achieving the required rating level;

(C) Not achieved the required rating level after completing remedial activities; or

(D) Received an extension from the department based on exceptional circumstances pursuant to RCW 43.216.085; and

(iv) Recommendations for improving retention and reducing barriers to entry for early learning providers;

(d) The average amount of time required for providers to achieve local level milestones within each level of the early achievers program;

(e) A summary of the types of exceptional circumstances for which the department has granted an extension to early achievers rating milestones pursuant to RCW 43.216.085;

(f) An analysis of the availability and quality of infant and toddler care; and

(g) An examination of any identified barriers that discourage providers from offering extended day early care and education opportunities.

(7) The information to be disclosed or shared under this section must not include sensitive personal information of in-home caregivers for vulnerable populations as defined in RCW 42.56.640, and must not include any other information protected from disclosure under state or federal law. [2021 c 304 § 8; 2020 c 262 § 3; 2019 c 369 § 13; 2015 3rd sp.s. c 7 § 18. Formerly RCW 43.215.102.]

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.090 Early achievers program—Mental health consultants. (1) The department shall administer or contract for infant and early childhood mental health consultation services to child care providers and early learning providers participating in the early achievers program.

(2) Beginning July 1, 2021, the department of children, youth, and families must have or contract for one infant and early childhood mental health consultation coordinator and must enter into a contractual agreement with an organization providing coaching services to early achievers program participants to hire at least 12 qualified infant and early childhood mental health consultants. The department shall determine, in collaboration with the statewide child care resource and referral network, where the additional consultants should be sited based on factors such as the total provider numbers overlaid with indicators of highest need. The infant and early childhood mental health consultants must support early achievers program coaches and child care providers by providing resources, information, and guidance regarding challenging behavior and expulsions and may travel to assist providers in serving families and children with severe behavioral needs.

(3) The department shall provide, or contract with an entity to provide, reflective supervision and professional development for infant and early childhood mental health consultants to meet national competency standards.

(4) As capacity allows, the department may provide access to infant and early childhood mental health consultation services to caregivers and licensed or certified, military, and tribal early learning providers, license-exempt family, friend, and neighbor care providers, and families with children expelled or at risk of expulsion from child care. [2021 c 199 § 309; 2019 c 360 § 7.]

Effective date—2021 c 199 §§ 201, 202, 301, 309, and 504: See note following RCW 43.216.1368.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Findings—Intent—2019 c 360: See note following RCW 74.09.4951.

43.216.091 Early achievers program—Administrative policies—Rating and rerating. The department must adopt administrative policies in the early achievers program, within the department's appropriations, to:

(1) Consider child care provider schedules and needs and allow flexibility when scheduling data collection and rating visits at a facility;

(2) Prioritize reratings for providers rated at a level 2;

(3) Prioritize reratings for providers rated at a level 3 who are seeking to become early childhood education and assistance program providers; and

(4) Provide continuous and robust postrating feedback to providers. [2019 c 369 § 8.]

Findings—Intent—2019 c 369: "(1) The legislature finds that a commitment to early learning quality was established through the passage of the early start act and creation of the early achievers program. The legislature recognizes that achieving the desired child outcomes from high quality early learning and child care requires additional financial support, including the payment of living wages to providers, and that the success of the early achievers system must continue to be supported through adequate funding. Further, the legislature finds that the federal administration of children and

families advises states to set child care subsidy rates at the seventy-fifth percentile of private market rates in order to ensure equal access to high quality child care. The legislature further finds that objectives of the early achievers program include providing professional development and robust training and coaching opportunities that are available in geographically diverse areas to child care and early education providers who are often small business owners and as such play a critical role in our state's economy.

(2) The legislature further finds that the department of children, youth, and families has undertaken efforts to identify professional equivalencies for early learning providers that recognize the commitment and years of experience that much of the workforce demonstrates.

(3) Therefore, as recommended by the joint select committee on the early achievers program, the legislature intends to work toward raising base subsidy rates for licensed child care centers and family homes and further incentivize the provision of care for infants and toddlers by considering rates for providers serving these young children. Further, the legislature intends to look to increase needs-based grants, scholarships, and professional development assistance, as well as reduce early achievers coaching ratios, in order to support providers in continuous improvement. The legislature further intends to support the work of the department of children, youth, and families' professional equivalencies committee and the department's development of the proficiency review process." [2019 c 369 § 1.]

43.216.092 Early achievers program—Administrative policies—Various. Subject to the availability of amounts appropriated for this specific purpose, the department must adopt administrative policies in the early achievers program to:

(1) Eliminate rating scale barriers, to the extent possible, within the assessment tools and data collection methodologies used in the early achievers program and weight early achievers points to incentivize providers to serve infants and toddlers;

(2) Remove barriers to timely approvals for one-on-one behavioral support assistants when requested by a provider; and

(3) Require trauma-informed care training for raters and coaches. [2019 c 369 § 9.]

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

43.216.100 Community information and involvement plan—Informing home-based, tribal, and family early learning providers of early achievers program. The department, in collaboration with the office of the superintendent of public instruction, shall create a community information and involvement plan to inform home-based, tribal, and family early learning providers of the early achievers program under RCW 43.216.085. [2019 c 369 § 14; 2016 c 72 § 701. Formerly RCW 43.215.103.]

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

Finding—Intent—2016 c 72: See note following RCW 28A.600.015.

43.216.105 Native language development and retention—Dual language learning—Rules. (1) The department of children, youth, and families must work with community partners to support outreach and education for parents and families around the benefits of native language development and retention, as well as the benefits of dual language learning. Native language means the language normally used by an individual or, in the case of a child or youth, the language normally used by the parents or family of the child or youth. Dual language learning means learning in two languages, generally English and a target language other than English spoken in the local community, for example Spanish, Somali,

Vietnamese, Russian, Arabic, native languages, or indigenous languages where the goal is bilingualism.

(2) Within existing resources, the department must create training and professional development resources on dual language learning, such as supporting English learners, working in culturally and linguistically diverse communities, strategies for family engagement, and cultural responsiveness. The department must design the training modules to be culturally responsive.

(3) Within existing resources, the department must support dual language learning communities for teachers and coaches.

(4) The department may adopt rules to implement this section. [2018 c 58 § 44; 2017 c 236 § 5. Formerly RCW 43.215.104.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Findings—Intent—2017 c 236: See note following RCW 28A.300.574.

43.216.110 Core competencies for early care and education professionals and child and youth development professionals—Adoption and implementation—Updating. By December 31, 2012, the department shall adopt core competencies for early care and education professionals and child and youth development professionals and develop an implementation plan. The department shall incorporate the core competencies into all appropriate professional development opportunities including, but not limited to, the quality rating and improvement system, the early childhood education and assistance program, child care licensing, and the early support for infants and toddlers program. The purpose of the core competencies is to serve as a foundation for what early care and education professionals and child and youth development professionals need to know and do to provide quality care for children. The core competencies must be reviewed and updated every five years. [2012 c 149 § 2. Formerly RCW 43.215.105.]

Findings—2012 c 149: "The legislature finds that adopting statewide core competencies for early care and education professionals and child and youth development professionals is important because the competencies:

(1) Define what early care and education professionals and child and youth development professionals need to know and be able to do to provide quality care and education for children;

(2) Serve as the foundation for decisions and practices carried out by professionals in all early care and education settings and school-age child care settings;

(3) Establish a set of standards for early care and education professionals and child and youth development professionals that support the professionalism for the field;

(4) Are an integral part of a comprehensive professional development system; and

(5) Recognize existing standards met by nationally chartered nonprofit youth development agencies providing facility-based after school services for school-age children as relevant and sufficient standards." [2012 c 149 § 1.]

43.216.115 Partnership responsibilities—Department's duties—Partnership's duties. (1) In order to meet its partnership responsibilities, the department shall:

(a) Work collaboratively with the nongovernmental private-public partnership; and

(b) Actively seek public and private money for distribution as grants to the nongovernmental private-public partnership.

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(2) In order to meet its partnership responsibilities, the nongovernmental private-public partnership shall:

(a) Work with and complement existing statewide efforts by enhancing parent resources and support, child care, preschool, and other early learning environments;

(b) Accept and expend funds to be used for quality improvement initiatives, including but not limited to parent resources and support, and support the alignment of existing funding streams and coordination of efforts across sectors;

(c) In conjunction with the department, provide leadership to early learning private-public partnerships forming in communities across the state. These local partnerships shall be encouraged to seek local funding and develop strategies to improve coordination and exchange information between the community, early care and education programs, and the K-12 system; and

(d) Assist the statewide movement to high quality early learning and the support of parents as a child's first and best teacher. [2007 c 394 § 6. Formerly RCW 43.215.110.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.216.010.

43.216.120 Reduction of barriers for using local or private funds for early learning opportunities. To the greatest extent possible, the department must reduce barriers and increase efficiency for using local or private funds, or both, to provide more high quality early learning opportunities. [2017 c 178 § 3. Formerly RCW 43.215.112.]

Intent—2017 c 178: See note following RCW 43.216.080.

43.216.125 Parental notification of report alleging sexual misconduct or abuse—Notice of parental rights. The department and an agency must, at the first opportunity but in all cases within forty-eight hours of receiving a report alleging sexual misconduct or abuse by an agency employee, notify the parents or guardian of a child alleged to be the victim, target, or recipient of the misconduct or abuse. The department and an agency shall provide parents annually with information regarding their rights under the public records act, chapter 42.56 RCW, to request the public records regarding the employee. [2007 c 415 § 8. Formerly RCW 43.215.120.]

43.216.130 Home visiting services account—Purpose—Administration—Funding. (1)(a) The home visiting services account is created in the state treasury. Revenues to the account shall consist of appropriations by the legislature and all other sources deposited in the account. All federal funds received by the department for home visiting activities must be deposited into the account.

(b)(i) Expenditures from the account shall be used for state matching funds for the purposes of the program established in this section and federally funded activities for the home visiting program, including administrative expenses.

(ii) The department oversees the account and is the lead state agency for home visiting system development. The nongovernmental private-public partnership supports the home visiting service delivery system and provides support functions to funded programs.

(iii) It is the intent of the legislature that state funds invested in the account be matched by the private-public partnership each fiscal year.

(iv) Amounts used for program administration by the department may not exceed an average of ten percent in any two consecutive fiscal years.

(v) Authorizations for expenditures may be given only after private funds are committed. The nongovernmental private-public partnership must report to the department quarterly to demonstrate investment of private match funds.

(c) Expenditures from the account are subject to appropriation and the allotment provisions of chapter 43.88 RCW.

(2) The department must expend moneys from the account to provide state matching funds for partnership activities to implement home visiting services and administer the infrastructure necessary to develop, support, and evaluate evidence-based, research-based, and promising home visiting programs.

(3) Activities eligible for funding through the account include, but are not limited to:

(a) Home visiting services that achieve one or more of the following: (i) Enhancing child development and well-being by alleviating the effects on child development of poverty and other known risk factors; (ii) reducing the incidence of child abuse and neglect; or (iii) promoting school readiness for young children and their families; and

(b) Development and maintenance of the infrastructure for home visiting programs, including training, quality improvement, and evaluation.

(4) Beginning July 1, 2010, the department shall contract with the nongovernmental private-public partnership designated in *RCW 43.215.070 to support programs funded through the home visiting services account. The department shall monitor performance and provide periodic reports on the uses and outcomes of the home visiting services account.

(5) The department shall, in the administration of the programs:

(a) Fund programs through a competitive bid process or in compliance with the regulations of the funding source; and

(b) Convene an advisory committee of early learning and home visiting experts, including one representative from the department, to advise the partnership regarding research and the distribution of funds from the account to eligible programs. [2017 c 171 § 2; 2013 c 165 § 1; 2010 1st sp.s. c 37 § 933. Formerly RCW 43.215.130.]

***Reviser's note:** RCW 43.215.070 was recodified as RCW 43.216.065 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

Additional notes found at www.leg.wa.gov

43.216.135 Child care providers—Subsidy requirements—Tiered reimbursements—Copayments. (1) Existing child care providers serving nonschool-age children and receiving state subsidy payments must complete the following requirements to be eligible for a state subsidy under this section:

(a) Enroll in the early achievers program by August 1, 2016;

(b) Complete level 2 activities in the early achievers program by August 1, 2017; and

(c) Rate or request to be rated at a level 3 or higher in the early achievers program by December 31, 2019. If a child

care provider does not rate at or request to be rated at a level 3 by December 31, 2019, the provider must complete remedial activities with the department, and must rate at or request to be rated at a level 3 or higher no later than December 30, 2020.

(2) A new child care provider serving nonschool-age children and receiving state subsidy payments must complete the following activities to be eligible to receive a state subsidy under this section:

(a) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment;

(b) Complete level 2 activities in the early achievers program within twelve months of enrollment; and

(c) Rate or request to be rated at a level 3 or higher in the early achievers program within thirty months of enrollment. If a child care provider does not rate or request to be rated at a level 3 within thirty months from enrollment into the early achievers program, the provider must complete remedial activities with the department, and rate or request to be rated at a level 3 or higher within twelve months of beginning remedial activities.

(3) If a child care provider does not rate or request to be rated at a level 3 or higher following the remedial period, the provider is no longer eligible to receive state subsidy under this section. If a child care provider does not rate at a level 3 or higher when the rating is released following the remedial period, the provider is no longer eligible to receive state subsidy under this section.

(4) If a child care provider serving nonschool-age children and receiving state subsidy payments has successfully completed all level 2 activities and is waiting to be rated by the deadline provided in this section, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(5) The department shall implement tiered reimbursement for early achievers program participants in the working connections child care program rating at level 3, 4, or 5.

(6) The department shall account for a child care copayment collected by the provider from the family for each contracted slot and establish the copayment fee by rule. [2020 c 355 § 2; 2020 c 321 § 2; 2020 c 279 § 1. Prior: 2019 c 406 § 70; 2019 c 369 § 4; 2019 c 97 § 2; 2018 c 52 § 6; 2017 3rd sp.s. c 9 § 2; 2015 3rd sp.s. c 7 § 6; 2013 c 323 § 9; prior: 2012 c 253 § 5; 2012 c 251 § 1; 2011 1st sp.s. c 42 § 11; 2010 c 273 § 2. Formerly RCW 43.215.135.]

Reviser's note: This section was amended by 2020 c 279 § 1, 2020 c 321 § 2, and by 2020 c 355 § 2, without reference to one another. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—2020 c 355: "The legislature finds that the federal child care and development block grant act of 2014 reauthorized the child care and development fund program and established a minimum twelve-month eligibility period for subsidized child care in order to provide families with more stability and to support the continuity of care between children and providers. The legislature further finds that the state's policy of authorizing twelve months of uninterrupted care was affirmed by the passage of the state's early start act in 2015. However, some families are not able to access child care right away through the working connections child care program due to factors beyond their control. These barriers to care include challenges with access to child care in rural areas, declining numbers of providers accepting state subsidy, and the persistence of child care deserts in which either no child care providers are in operation or there are so few options for child care that the demand outweighs available slots. Therefore, the legislature intends to clarify the state's policy that all eligible children may receive

at least a full twelve months of working connections child care." [2020 c 355 § 1.]

Effective date—2020 c 355: "This act takes effect January 1, 2021." [2019 c 355 § 5.]

Effective date—2020 c 279: See note following RCW 43.216.136.

Contingent effective date—2019 c 406 § 70: "Section 70 of this act takes effect only if chapter 97, Laws of 2019 is enacted by July 28, 2019." [2019 c 406 § 78.]

Findings—Intent—2019 c 406: "(1) The legislature recognizes the following:

(a) In Washington, over forty-six thousand community and technical college students, which represents twenty-three percent of all community and technical college students in the state, are parents of dependent children. Student parents represent more than one-quarter of community and technical college students in Washington who receive financial aid. Financial assistance[,] however, does not sufficiently cover many student parents' college expenses.

(b) Caregiving demands affect student parents' ability to devote the time needed to succeed in school. Nearly three-quarters of women community college students living with dependents report spending over twenty hours per week caring for dependents. Many of these students report that care demands are likely to lead them to drop out: Forty-three percent of women and thirty-seven percent of men at two-year institutions who live with children say they are likely or very likely to withdraw from college to care for dependents.

(c) In addition, child care costs represent a large financial burden for parents who are in college. The annual cost of full-time, center-based infant care averages over thirteen thousand dollars in Washington. Given the financial pressures experienced by student parents, both married and single, assistance with paying for quality child care services could dramatically improve their ability to make ends meet and complete their higher education programs.

(d) Work requirements imposed on student parents as a condition for receiving child care assistance can have negative consequences for parents in education or job training. Students working more than fifteen hours per week achieve significantly lower college attainment compared with those who work fewer hours. Nationally, fifty-eight percent of community college student parents who work fifteen or more hours per week leave school without earning a credential within six years of enrollment, compared with forty-eight percent who work less than fifteen hours per week.

(2) Therefore, the legislature intends to improve access and completion rates of student parents enrolled in community and technical colleges by reducing existing restrictions to subsidized child care." [2019 c 406 § 69.]

Findings—Intent—2019 c 406: See note following RCW 43.79.195.

Findings—Short title—2019 c 406: See notes following RCW 28B.92.200.

Findings—2019 c 406: See note following RCW 28B.94.020.

Findings—Intent—2019 c 406: See note following RCW 28C.30.050.

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

Findings—Intent—2019 c 97: "(1) The legislature recognizes the following:

(a) In Washington, over forty-six thousand community and technical college (CTC) students, which represents twenty-three percent of all CTC students in the state, are parents of dependent children. Student parents represent more than one-quarter of CTC students in Washington who receive financial aid. Financial assistance however, does not sufficiently cover many student parents' college expenses.

(b) Caregiving demands affect student parents' ability to devote the time needed to succeed in school. Nearly three-quarters of women community college students living with dependents report spending over twenty hours per week caring for dependents. Many of these students report that care demands are likely to lead them to drop out: Forty-three percent of women and thirty-seven percent of men at two-year institutions who live with children say they are likely or very likely to withdraw from college to care for dependents.

(c) In addition, child care costs represent a large financial burden for parents who are in college. The annual cost of full-time, center-based infant care averages over thirteen thousand dollars in Washington. Given the financial pressures experienced by student parents, both married and single, assistance with paying for quality child care services could dramatically improve their ability to make ends meet and complete their higher education programs.

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(d) Work requirements imposed on student parents as a condition for receiving child care assistance can have negative consequences for parents in education or job training. Students working more than fifteen hours per week achieve significantly lower college attainment compared with those who work fewer hours. Nationally, fifty-eight percent of community college student parents who work fifteen or more hours per week leave school without earning a credential within six years of enrollment, compared with forty-eight percent who work less than fifteen hours per week.

(2) Therefore, the legislature intends to improve access and completion rates of student parents enrolled in community and technical colleges by reducing existing restrictions to subsidized child care." [2019 c 97 § 1.]

Effective date—Intent—Finding—2018 c 52: See notes following RCW 43.216.909.

Findings—Intent—2017 3rd sp.s. c 9: "The legislature finds that children with the greatest needs benefit significantly from child care programs that promote stability, quality, and continuity of care. The legislature recognizes that empirical evidence supports the conclusion that high quality child care programs consistently yield more positive outcomes for children, with the strongest positive impacts on the most vulnerable children.

Children in the child welfare system are some of the most vulnerable children. The legislature finds that a child who experiences child abuse or neglect is over four times more likely to abuse substances as an adult and forty-three percent of youth in the juvenile justice system were involved in the child welfare system.

The legislature finds that the child care and development block grant act of 2014 allows the *department of early learning to provide working connections child care to children in need of, or receiving, protective services. The legislature further understands that as of July 1, 2016, authorizations for the working connections child care subsidy are effective for twelve months.

The legislature finds that the children's mental health work group, in its December 2016 final report, recommended that state agencies provide at least twelve months of stable child care through the working connections child care program for certain children involved in the child welfare system, regardless of the employment status of their parents or guardians. Many of these child welfare-involved families are addressing chemical dependency issues, which require a significant amount of time to overcome. For these reasons, the legislature intends to allow certain populations of vulnerable children to be eligible for the working connections child care subsidy for a minimum of twelve months." [2017 3rd sp.s. c 9 § 1.]

***Reviser's note:** The department of early learning was abolished and its powers, duties, and functions were transferred to the department of children, youth, and families by 2017 3rd sp.s. c 6 § 802, effective July 1, 2018.

Effective date—2017 3rd sp.s. c 9: "This act takes effect December 1, 2018." [2017 3rd sp.s. c 9 § 3.]

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Findings—Purpose—2012 c 253: See note following RCW 74.08.580.

Effective date—2012 c 251: "This act takes effect July 1, 2012." [2012 c 251 § 3.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

Intent—2010 c 273: "It is the intent of the legislature that this act be implemented within the funding appropriated in the 2009-11 biennial budget. No additional appropriations will be provided for its implementation." [2010 c 273 § 7.]

43.216.136 Working connections child care program—Eligibility. (1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures established by the department and the standards established in this section intended to promote stability, quality, and continuity of early care and education programming.

[Title 43 RCW—page 747]

(2) As recommended by P.L. 113-186, authorizations for the working connections child care subsidy are effective for twelve months beginning July 1, 2016.

(a) A household's 12-month authorization begins on the date that child care is expected to begin.

(b) If a newly eligible household does not begin care within 12 months of being determined eligible by the department, the household must reapply in order to qualify for subsidy.

(3)(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:

(i) In the last six months have:

(A) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;

(B) Received child welfare services as defined and used by chapter 74.13 RCW; or

(C) Received services through a family assessment response as defined and used by chapter 26.44 RCW;

(ii) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020; and

(iii) Are residing with a biological parent or guardian.

(b) Families who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services identified in this subsection to maintain twelve-month authorization.

(4)(a) Beginning July 1, 2021, and subject to the availability of amounts appropriated for this specific purpose, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is a full-time student of a community, technical, or tribal college and is enrolled in:

(i) A vocational education program that leads to a degree or certificate in a specific occupation;

(ii) An associate degree program; or

(iii) A registered apprenticeship program.

(b) An applicant or consumer is a full-time student for the purposes of this subsection if he or she meets the college's definition of a full-time student.

(c) Nothing in this subsection is intended to change how applicants or consumers are prioritized when applicants or consumers are placed on a waitlist for working connections child care benefits.

(d) Subject to the availability of amounts appropriated for this specific purpose, the department may extend the provisions of this subsection (4) to full-time students who are enrolled in a bachelor's degree program or applied baccalaureate degree program.

(5)(a) The department must extend the homeless grace period, as adopted in department rule as of January 1, 2020, from a four-month grace period to a twelve-month grace period.

(b) For the purposes of this section, "homeless" means being without a fixed, regular, and adequate nighttime resi-

dence as described in the federal McKinney-Vento homeless assistance act (42 U.S.C. Sec. 11434a) as it existed on January 1, 2020.

(6) For purposes of this section, "authorization" means a transaction created by the department that allows a child care provider to claim payment for care. The department may adjust an authorization based on a household's eligibility status. [2021 c 199 § 202; 2020 c 279 § 2.]

Effective date—2021 c 199 §§ 201, 202, 301, 309, and 504: See note following RCW 43.216.1368.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Effective date—2020 c 279: "This act takes effect July 1, 2020." [2020 c 279 § 4.]

43.216.1368 Working connections child care program—Eligibility—Copayments. (1) It is the intent of the legislature to increase working families' access to affordable, high quality child care and to support the expansion of the workforce to support businesses and the statewide economy.

(2) Beginning October 1, 2021, a family is eligible for working connections child care when the household's annual income is at or below 60 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(3) Beginning July 1, 2025, a family is eligible for working connections child care when the household's annual income is above 60 percent and at or below 75 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(4) Beginning July 1, 2027, and subject to the availability of amounts appropriated for this specific purpose, a family is eligible for working connections child care when the household's annual income is above 75 percent of the state median income and is at or below 85 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(5)(a) Beginning October 1, 2021, through June 30, 2023, the department must calculate a monthly copayment according to the following schedule:

If the household's income is:	Then the household's maximum monthly copayment is:
At or below 20 percent of the state median income	Waived to the extent allowable under federal law; otherwise, a maximum of \$15

Above 20 percent and at or below 36 percent of the state median income	\$65
Above 36 percent and at or below 50 percent of the state median income	\$115 until December 31, 2021, and \$90 beginning January 1, 2022
Above 50 percent and at or below 60 percent of the state median income	\$115

(b) Beginning July 1, 2023, the department must calculate a monthly copayment according to the following schedule:

If the household's income is:	Then the household's maximum monthly copayment is:
At or below 20 percent of the state median income	Waived to the extent allowable under federal law; otherwise, a maximum of \$15
Above 20 percent and at or below 36 percent of the state median income	\$65
Above 36 percent and at or below 50 percent of the state median income	\$90
Above 50 percent and at or below 60 percent of the state median income	\$165

(c) Beginning July 1, 2025, the department must calculate a maximum monthly copayment of \$215 for households with incomes above 60 percent and at or below 75 percent of the state median income.

(d) Subject to the availability of amounts appropriated for this specific purpose, the department shall adopt a copayment model for households with annual incomes above 75 percent of the state median income and at or below 85 percent of the state median income. The model must calculate a copayment for each household that is no greater than seven percent of the household's countable income within this income range.

(e) The department may adjust the copayment schedule to comply with federal law.

(6) The department must adopt rules to implement this section, including an income phase-out eligibility period. [2022 c 297 § 959; 2021 c 199 § 201.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Effective date—2021 c 199 §§ 201, 202, 301, 309, and 504: "Sections 201, 202, 301, 309, and 504 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2021." [2021 c 199 § 607.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.137 Working connections child care program—Unemployment compensation. For the working connections child care program, the department shall not count the twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in *RCW 50.20.1202 when determining a consumer's income eligibility and copayment. [2011 c 4 § 17. Formerly RCW 43.215.1351.]

*Reviser's note: RCW 50.20.1202 was repealed by 2021 c 2 § 27.

Additional notes found at www.leg.wa.gov

43.216.139 Working connections child care program—Notification of change in providers. Beginning July 1, 2016, or earlier if a different date is provided in the omnibus appropriations act, when an applicant or recipient

applies for or receives working connections child care benefits, the applicant or recipient is required to notify the department, within five days, of any change in providers. [2018 c 52 § 3; 2015 3rd sp.s. c 7 § 7; 2012 c 251 § 2. Formerly RCW 43.215.1352.]

Effective date—Intent—Finding—2018 c 52: See notes following RCW 43.216.909.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Effective date—2012 c 251: See note following RCW 43.216.135.

43.216.141 Working connections child care program—Standards and guidelines—Duties of the department. (1) The standards and guidelines described in this section are intended for the guidance of the department. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state.

(2) When providing services to parents applying for or receiving working connections child care benefits, the department must provide training to departmental employees on professionalism.

(3) When providing services to parents applying for or receiving working connections child care benefits, the department has the following responsibilities:

(a) To return all calls from parents receiving working connections child care benefits within two business days of receiving the call;

(b) To develop a process by which parents receiving working connections child care benefits can submit required forms and information electronically by June 30, 2015;

(c) To notify providers and parents ten days before the loss of working connections child care benefits; and

(d) To provide parents with a document that explains in detail and in easily understood language what services they are eligible for, how they can appeal an adverse decision, and the parents' responsibilities in obtaining and maintaining eligibility for working connections child care. [2018 c 52 § 4; 2013 c 337 § 1. Formerly RCW 43.215.136.]

Effective date—Intent—Finding—2018 c 52: See notes following RCW 43.216.909.

43.216.143 Working connections child care program—Contracted child care slots and vouchers. (1) The department may employ a combination of vouchers and contracted slots for the subsidized child care programs in *RCW 43.215.135. Child care vouchers preserve parental choice. Child care contracted slots promote access to continuous quality care for children, provide parents and caregivers stable child care that supports employment, and allow providers to have predictable funding. Any contracted slots the department may create under this section must meet the requirements in subsections (2) through (6) of this section.

(2) Only child care providers who participate in the early achievers program and rate at a level 3, 4, or 5 are eligible to be awarded a contracted slot.

(3)(a) The department is required to use data to calculate a set number of targeted contracted slots. In calculating the number, the department must take into account a balance of family home and center child care programs and the overall geographic distribution of child care programs in the state and the distribution of slots between ages zero and five.

(b) The targeted contracted slots are reserved for programs meeting both of the following conditions:

- (i) Programs in low-income neighborhoods; and
- (ii) Programs that consist of at least fifty percent of children receiving subsidy pursuant to *RCW 43.215.135.

(c) Until August 1, 2017, the department shall assure an even distribution of contracted slots for children birth to age five.

(4) The department shall award the remaining contracted slots via a competitive process and prioritize child care programs with at least one of the following characteristics:

- (a) Programs located in a high-need geographic area;
- (b) Programs partnering with elementary schools to offer transitional planning and support to children as they advance to kindergarten;
- (c) Programs serving children involved in the child welfare system; or
- (d) Programs serving children diagnosed with a special need.

(5) The department shall pay a provider for each contracted slot, unless a contracted slot is not used for thirty days.

(6) The department shall include the number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding in the annual report to the legislature required under *RCW 43.215.102. [2015 3rd sp.s. c 7 § 14. Formerly RCW 43.215.137.]

***Reviser's note:** RCW 43.215.135 and 43.215.102 were recodified as RCW 43.216.135 and 43.216.089, respectively, pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.145 Working connections child care—Eligibility of high school students. (1) A parent who is attending high school is eligible to receive working connections child care.

(2) A parent age twenty-one years or younger who is working toward completing a high school equivalency certificate is eligible to receive working connections child care.

(3) When determining consumer eligibility and copayment under this section, the department:

(a) Must, within existing resources, authorize full-day subsidized child care during the school year in cases where:

(i) The parent is participating in one hundred ten hours of approved activities per month;

(ii) The household income of the parent does not exceed eighty-five percent of the state median income at the time of application; and

(iii) The parent meets all other program eligibility requirements;

(b) May not consider the availability of the other biological parent when authorizing care; and

(c) May not require a copayment. [2020 c 339 § 1.]

Effective date—2020 c 339 § 1: "Section 1 of this act takes effect September 1, 2020." [2020 c 339 § 4.]

43.216.152 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community-based early learning providers" includes for-profit and nonprofit licensed providers of child care and preschool programs.

(2) "Program" means the program of early learning established in *RCW 43.215.141 for eligible children who are three and four years of age. [2010 c 231 § 2. Formerly RCW 43.215.140.]

***Reviser's note:** RCW 43.215.141 was recodified as RCW 43.215.455 pursuant to 2013 2nd sp.s. c 16 § 5. RCW 43.215.455 was subsequently recodified as RCW 43.216.555 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

43.216.155 Home visitation programs—Findings—Intent. The legislature finds that:

(1) The years from birth to three are critical in building the social, emotional, and cognitive developmental foundations of a young child. Research into the brain development of young children reveals that children are born learning.

(2) The farther behind children are in their social, emotional, physical, and cognitive development, the more difficult it will be for them to catch up.

(3) A significant number of children age birth to five years are born with two or more of the following risk factors and have a greater chance of failure in school and beyond: Poverty; single or no parent; no parent employed full time or full year; all parents with disability; and mother without a high school degree.

(4) Parents and children involved in home visitation programs exhibit better birth outcomes, enhanced parent and child interactions, more efficient use of health care services, enhanced child development including improved school readiness, and early detection of developmental delays, as well as reduced welfare dependence, higher rates of school completion and job retention, reduction in frequency and severity of maltreatment, and higher rates of school graduation.

The legislature intends to promote the use of voluntary home visitation services to families as an early intervention

strategy to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of a high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes. [2007 c 466 § 1. Formerly RCW 43.215.145, 43.121.170.]

43.216.157 Home visitation programs—Definitions.

The definitions in this section apply throughout this section and RCW *43.215.145, *43.215.147, and **43.121.185 unless the context clearly requires otherwise.

(1) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(2) "Home visitation" means providing services in the permanent or temporary residence, or in other familiar surroundings, of the family receiving such services.

(3) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices. [2011 1st sp.s. c 32 § 6; 2007 c 466 § 2. Formerly RCW 43.215.146, 43.121.175.]

Reviser's note: *(1) RCW 43.215.145 and 43.215.147 were recodified as RCW 43.216.155 and 43.216.159, respectively, pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

***(2) RCW 43.121.185 was repealed by 2011 1st sp.s. c 32 § 12, effective June 30, 2012.

Additional notes found at www.leg.wa.gov

43.216.159 Home visitation programs—Funding—Home visitation services coordination or consolidation plan.

(1) Within available funds, the department shall fund evidence-based and research-based home visitation programs for improving parenting skills and outcomes for children. Home visitation programs must be voluntary and must address the needs of families to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes. In order to maximize opportunities to obtain matching funds from private entities, general funds intended to support home visiting funding shall be appropriated to the home visiting services account established in *RCW 43.215.130.

(2) The department shall work with the department of social and health services, the department of health, the private-public partnership created in *RCW 43.215.070, and key partners and stakeholders to develop a plan to coordinate or consolidate home visitation services for children and families to the extent practicable. [2011 1st sp.s. c 32 § 7; 2008 c 152 § 6; 2007 c 466 § 3. Formerly RCW 43.215.147, 43.121.180.]

***Reviser's note:** RCW 43.215.130 and 43.215.070 were recodified as RCW 43.216.130 and 43.216.065, respectively, pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

Findings—Intent—2008 c 152: See note following RCW 13.34.136.

Additional notes found at www.leg.wa.gov

43.216.165 Early start account. (1) The early start account is created in the custody of the state treasurer. Revenues in the account shall consist of appropriations by the legislature and all other sources deposited into the account. Expenditures from the account may be used only for the purposes listed in RCW 43.216.080. All receipts from local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations must be deposited into the account.

(2) The department oversees the account. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(3) The department shall separately track funds received for each local government, school district, institution of higher education as defined in RCW 28B.10.016, or nonprofit organization that deposits funds into the account. Expenditures from these funds may be used only for the purposes listed in RCW 43.216.080 as identified in writing with the department by the contributing local government, school district, institution of higher education as defined in RCW 28B.10.016, or nonprofit organization. [2018 c 58 § 68; 2017 c 178 § 5; 2015 3rd sp.s. c 7 § 17. Formerly RCW 43.215.195.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Intent—2017 c 178: See note following RCW 43.216.080.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.170 Applicants for positions with the department—Investigation and background checks.

(1) The secretary shall investigate the conviction records, pending charges, and disciplinary board final decisions of any current employee or applicant seeking or being considered for any position with the department who will or may have unsupervised access to children. This includes, but is not limited to, positions conducting comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards.

(2) The secretary shall require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation as provided in RCW 43.43.837. Unless otherwise authorized by law, the secretary shall use the information solely for the purpose of determining the character, suitability, and competence of the applicant.

(3) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

(4) Any person whose criminal history would otherwise disqualify the person under this section from a position that will or may have unsupervised access to children shall not be disqualified if the department of social and health services reviewed the person's otherwise disqualifying criminal history through the department of social and health services' background assessment review team process conducted in 2002 and determined that such person could remain in a position covered by this section, or if the otherwise disqualifying

conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure. [2017 3rd sp.s. c 6 § 801.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.180 Education of students in the custody of juvenile rehabilitation facilities—Duties—Creation of a comprehensive plan. (1) The department shall meet regularly with the school districts that educate students who are in the custody of medium and maximum security facilities operated by juvenile rehabilitation to help coordinate activities in areas of common interest, such as communication with parents. The office of the superintendent of public instruction shall facilitate upon request of the department.

(2) The office of the superintendent of public instruction, in collaboration with the department, shall create a comprehensive plan for the education of students in juvenile rehabilitation and provide it to the governor and relevant committees of the legislature by September 1, 2020. [2019 c 322 § 7.]

Findings—Intent—2019 c 322: See note following RCW 72.01.410.

43.216.190 Assistance with submission of Washington state identicard application materials. The department shall assist licensed or contracted providers in following the process established under RCW 46.20.036 for providers submitting Washington state identicard application materials for individuals qualifying for a Washington state identicard under RCW 46.20.117(1)(c)(ii). [2020 c 124 § 1.]

43.216.195 Child care centers—Negotiated rule making. When the secretary elects to engage in negotiated rule making pursuant to RCW 34.05.310(2)(a), the department must include the largest organization representing child care center owners and directors; the largest organization representing supervisors, teachers, and aides; and other affected interests before adopting requirements that affect child care center licensees. [2021 c 199 § 312.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.200 Imagination library of Washington program. (1) The following definitions apply to this section:

(a) "Eligible children" means children from birth to age five;

(b) "National nonprofit foundation" means a national nonprofit foundation that exists for the purpose of working with local entities to identify eligible children and mail age-appropriate, high quality books each month to those children at no cost to families; and

(c) "Program" means the imagination library of Washington program created under subsection (2) of this section.

(2) Subject to the amounts appropriated for this specific purpose, the department, in coordination with the office of the superintendent of public instruction, shall select a Washington state-based qualified 501(c)(3) nonprofit organization physically located in Washington state to create and operate the program. The nonprofit organization selected under this subsection shall:

(a) Manage the daily operations of the program;

(b) Establish affiliate programs across the state;

(c) Advance and strengthen the affiliate programs with the goal of increasing enrollment in those programs;

(d) Develop, promote, and coordinate a public awareness campaign to make donors aware of the opportunity to donate to affiliate programs and make the public aware of the opportunity to register eligible children to receive books through the program; and

(e) Contract with a national nonprofit foundation to provide age-appropriate, high quality books each month to eligible children at no cost to families.

(3)(a) By November 1, 2022, and annually thereafter, the nonprofit organization selected to operate the program under subsection (2) of this section shall submit a report to the relevant committees of the legislature and the governor describing:

(i) The number of affiliate programs established by the program;

(ii) The number of children enrolled in each affiliate program; and

(iii) The number of children statewide enrolled in the program.

(b) The report in this subsection must be submitted in compliance with RCW 43.01.036.

(4)(a) The nonprofit organization selected to operate the program under subsection (2) of this section shall provide payment to the national nonprofit foundation under subsection (2)(e) of this section that equals 50 percent of the cost to provide books to eligible children enrolled in the program.

(b) Each affiliate program shall provide payment to the program under subsection (2) of this section that equals the remaining cost to provide books to eligible children enrolled in the program.

(c) Nothing in this section requires that state funding be provided to the nonprofit organization selected under this subsection or to the program except as provided in subsection (5) of this section.

(5) The department may seek and accept gifts, grants, or endowments from public or private sources for the program and may spend any gifts, grants, or endowments or income from public or private sources on the program according to their terms. [2022 c 39 § 1.]

43.216.205 Youth and young adults exiting publicly funded system of care—Rapid response team. (Effective January 1, 2023.) (1) The department, in coordination with the office of homeless youth prevention and protection programs, the department of social and health services, and the health care authority, shall develop and implement a rapid response team that is prepared to respond appropriately to support youth and young adults exiting a publicly funded system of care. As part of the development and implementation of the rapid response team, the department shall develop and implement a system for:

(a) Identifying youth and young adults that should be served by the rapid response team;

(b) Initiating use of the rapid response team in a timely manner that will allow for the best possible transition planning; and

(c) Locating services and connecting youth and young adults with those services to establish stability.

(2) The rapid response team developed under this section may provide assistance and support to youth and young adults who are at risk of becoming homeless and who are exiting a publicly funded system of care with the goal of securing appropriate housing and other supports for the youth or young adult. If there is no housing identified for a youth or young adult upon exit, the rapid response team shall meet before a youth or young adult transitions out of a publicly funded system of care to allow the youth or young adult to better prepare for the exit. The assistance and support provided under this subsection should occur as soon as possible, particularly if a youth or young adult presents risk factors that place the youth at higher risk of possible homelessness.

(3) Any of the following individuals may refer a youth or young adult to the rapid response team:

- (a) A youth or young adult themselves;
- (b) A family member of a youth or young adult;
- (c) An advocate for a youth or young adult;
- (d) An educator;
- (e) A law enforcement officer;
- (f) An employee of the department or the office of homeless youth prevention and protection programs;
- (g) A service provider contracting with or licensed by the department;
- (h) A behavioral health service provider serving a youth or young adult; or
- (i) A service provider contracting with the office of homeless youth prevention and protection programs.

(4) For the purposes of this section:

- (a) "Publicly funded system of care" has the same meaning as provided in RCW 43.330.720;
- (b) "Rapid response team" means a team of representatives from relevant state agencies that meet to respond to complex cases involving a youth or young adult located anywhere in the state exiting a publicly funded system of care to support those youth or young adults with the goal of securing appropriate housing and other supports for the youth or young adult. Services and supports under this section must incorporate youth or young adult voice and choice. The services under this section must be responsive to the individual needs of each youth or young adult and may include, but are not limited to:

- (i) Behavioral health services;
- (ii) Civil legal aid;
- (iii) Peer support;
- (iv) Family reconciliation or engagement services;
- (v) Employment support;
- (vi) Education support;
- (vii) Case management;
- (viii) Housing and financial support; or
- (ix) Other navigation support to secure safe and stable housing; and

(c) "Youth" and "young adult" have the same meaning as provided in RCW 43.330.702.

(5) By November 1, 2023, and annually thereafter, the department, in coordination with the office of homeless youth prevention and protection programs shall provide a report to the legislature and the governor including data and recommendations related to the rapid response team created in this section. The report required under this subsection must be

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submitted in compliance with RCW 43.01.036. The report required under this subsection must include the following:

- (a) The number of people referred to the rapid response team and the types of people making referrals to the rapid response team;
- (b) The demographic data of the people served by the rapid response team;
- (c) The types of services identified as needed for the people served by the rapid response team;
- (d) The availability of the services identified as needed for the people served by the rapid response team; and
- (e) The barriers identified to adequately address the needs of people referred to the rapid response team and recommendations to address those barriers. [2022 c 137 § 2.]

Effective date—2022 c 137 § 2: "Section 2 of this act takes effect January 1, 2023." [2022 c 137 § 6.]

Findings—Intent—2022 c 137: See note following RCW 43.330.723.

LICENSING

43.216.250 Secretary's licensing duties. It shall be the secretary's duty with regard to licensing under this chapter:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities or outdoor locations for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2)(a) In consultation with the state fire marshal's office, the secretary shall use an interagency process to address health and safety requirements for child care programs that serve school-age children and are operated in buildings that contain public or private schools that safely serve children during times in which school is in session;

(b) Any requirements in (a) of this subsection as they relate to the physical facility, including outdoor playgrounds, do not apply to before-school and after-school programs that serve only school-age children and operate in the same facilities used by public or private schools;

(3) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter;

(4) In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in child care;

(5) To satisfy the shared background check requirements provided for in RCW 43.216.270 and 43.20A.710, the department of children, youth, and families and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may

share the federal background check results with any other state agency or person;

(6) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of child care that an agency is authorized to render and the ages and number of children to be served;

(7) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(8) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(9) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child care requirements; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children. [2021 c 304 § 9; 2018 c 58 § 70; 2017 3rd sp.s. c 6 § 205; 2015 3rd sp.s. c 7 § 4. Prior: 2011 c 359 § 2; 2011 c 253 § 3; 2007 c 415 § 3; 2006 c 265 § 301. Formerly RCW 43.215.200.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Effective date—2015 3rd sp.s. c 7 § 4: "Section 4 of this act takes effect July 1, 2016." [2015 3rd sp.s. c 7 § 23.]

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Finding—Intent—2011 c 359: "(1) The legislature finds that some licensed child care centers seeking to operate in public schools incur substantial costs to renovate spaces that are considered safe for children to use for the purpose of education. Consequently, families are forced to seek before or after school child care outside of the school building, resulting in additional transitions for students.

(2) It is the legislature's intent to allow licensed child care centers that serve school-age children to operate in facilities that provide a safe and healthy environment for children to use for the purpose of education. With respect to section 2(2) of this act, the legislature intends that the development of any related child care licensing requirements shall:

- (a) Ensure safe and healthy environments for children;
- (b) Utilize existing rule-making processes and resources;
- (c) Utilize existing requirements as a starting point rather than create an entirely new set of requirements; and
- (d) Give due consideration to the burdens imposed by inconsistent licensing requirements." [2011 c 359 § 1.]

43.216.255 Licensing standards. (1) No later than November 1, 2016, the department shall implement a single set of licensing standards for child care and the early childhood education and assistance program. The department shall produce the single set of licensing standards within the department's available appropriations. The new licensing standards must:

- (a) Provide minimum licensing requirements for child care and preschool programs;
- (b) Rely on the standards established in the early achievers program to address quality issues in participating early childhood programs;
- (c) Take into account the separate needs of family care providers, outdoor nature-based child care providers, and child care centers; and
- (d) Promote the continued safety of child care settings.

(2) Private schools that operate early learning programs and do not receive state subsidy payments shall be subject to the minimum health and safety standards as defined in RCW 43.216.395(2)(b), the health and safety requirements under chapter 28A.195 RCW, and the requirements necessary to assure a sufficient early childhood education to meet usual requirements needed for transition into elementary school. The state, and any agency thereof, shall not restrict or dictate any specific educational or other programs for early learning programs operated by private schools except for programs that receive state subsidy payments. [2021 c 304 § 10; 2015 3rd sp.s. c 7 § 3. Formerly RCW 43.215.201.]

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.260 Minimum requirements for licensure. Applications for licensure shall require, at a minimum, the following information:

(1) The size and suitability of a facility or location for an outdoor nature-based child care program, and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(2) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children;

(3) The number of qualified persons required to render the type of care for which an agency seeks a license;

(4) To provide for the comfort, care, and well-being of children, information about the health, safety, cleanliness, and general adequacy of the premises, including the real property and premises for an outdoor nature-based child care program;

(5) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;

(6) The financial ability of an agency to comply with minimum requirements established under this chapter; and

(7) The maintenance of records pertaining to the care of children. [2021 c 304 § 11; 2007 c 415 § 4. Formerly RCW 43.215.205.]

43.216.265 Fire protection—Powers and duties of chief of the Washington state patrol. The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty:

(1) In consultation with the secretary and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt recognized minimum standard requirements pertaining to each category of agency established pursuant to this chapter necessary to protect all persons residing therein from fire hazards;

(2) To adopt licensing minimum standard requirements to allow children who attend classes in a school building during school hours to remain in the same building to participate in before-school or after-school programs and to allow participation in such before-school and after-school programs by children who attend other schools and are transported to attend such before-school and after-school programs;

(3) To make or cause to be made such inspections and investigations of agencies as he or she deems necessary;

(4) To make a periodic review of requirements under RCW 43.216.250(8) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(5) To issue to applicants for licenses under this chapter who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department before a license shall be issued, except that an initial license may be issued as provided in RCW 43.216.315. [2018 c 58 § 42; 2013 c 227 § 1; 2006 c 265 § 302. Formerly RCW 43.215.210.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.270 Character, suitability, and competence to provide child care and early learning services—Fingerprint criminal history record checks—Background check clearance card or certificate—Shared background checks. (1)(a) In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes. No unfounded or inconclusive allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter.

(b) The department may not deny or delay a license to provide child care and early learning services under this chapter to an individual solely because of a founded finding of physical abuse or negligent treatment or maltreatment involving the individual revealed in the background check process or solely because the individual's child was found by a court to be dependent as a result of a finding that the individual abused or neglected their child pursuant to RCW 13.34.030(6)(b) when that founded finding or court finding is accompanied by a certificate of parental improvement as defined in chapter 74.13 RCW related to the same incident.

(2) In order to determine the suitability of individuals newly applying for an agency license, new licensees, their new employees, and other persons who newly have unsupervised access to children in child care, shall be fingerprinted.

(a) The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history record check.

(b)(i) All individuals applying for first-time agency licenses, all new employees, and other persons who have not been previously qualified by the department to have unsupervised access to children in child care must be fingerprinted and obtain a criminal history record check pursuant to this section.

(ii) Except during fiscal year 2023, persons required to be fingerprinted and obtain a criminal history record check pursuant to this section must pay for the cost of this check as follows: The fee established by the Washington state patrol for the criminal background history check, including the cost of obtaining the fingerprints; and a fee paid to the department for the cost of administering the individual-based/portable

background check clearance registry. The fee paid to the department must be deposited into the individual-based/portable background check clearance account established in RCW 43.216.273. The licensee may, but need not, pay these costs on behalf of a prospective employee or reimburse the prospective employee for these costs. The licensee and the prospective employee may share these costs.

(c) The secretary shall use the fingerprint criminal history record check information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children.

(d) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

(e) No later than July 1, 2013, all agency licensees holding licenses prior to July 1, 2012, persons who were employees before July 1, 2012, and persons who have been qualified by the department before July 1, 2012, to have unsupervised access to children in child care, must submit a new background application to the department. The department must require persons submitting a new background application pursuant to this subsection (2)(e) to pay a fee to the department for the cost of administering the individual-based/portable background check clearance registry. This fee must be paid into the individual-based/portable background check clearance account established in RCW 43.216.273. The licensee may, but need not, pay these costs on behalf of a prospective employee or reimburse the prospective employee for these costs. The licensee and the prospective employee may share these costs.

(f) The department shall issue a background check clearance card or certificate to the applicant if after the completion of a background check the department concludes the applicant is qualified for unsupervised access to children in child care. The background check clearance card or certificate is valid for three years from the date of issuance. A valid card or certificate must be accepted by a potential employer as proof that the applicant has successfully completed a background check as required under this chapter. For purposes of renewal of the background clearance card or certificate, all agency licensees holding a license, persons who are employees, and persons who have been previously qualified by the department, must submit a new background application to the department on a date to be determined by the department. Except during fiscal year 2023, fee requirements applicable to this section also apply to background clearance renewal applications.

(g) The original applicant for an agency license, licensees, their employees, and other persons who have unsupervised access to children in child care shall submit a new background check application to the department, on a form and by a date as determined by the department.

(h) The payment requirements applicable to (a) through (g) of this subsection do not apply to persons who:

(i) Provide regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours;

- (ii) Receive child care subsidies; and
- (iii) Are exempt from licensing under this chapter.

(i) The applicant and agency shall maintain on-site for inspection a copy of the background check clearance card or certificate.

(j) Individuals who have been issued a background check clearance card or certificate shall report nonconviction and conviction information to the department within twenty-four hours of the event constituting the nonconviction or conviction information.

(k) The department shall investigate and conduct a re-determination of an applicant's or licensee's background clearance if the department receives a complaint or information from individuals, a law enforcement agency, or other federal, state, or local government agency. Subject to the requirements contained in RCW 43.216.325 and 43.216.327 and based on a determination that an individual lacks the appropriate character, suitability, or competence to provide child care or early learning services to children, the department may: (i) Invalidate the background card or certificate; or (ii) suspend, modify, or revoke any license authorized by this chapter.

(3) To satisfy the shared background check requirements of the department of children, youth, and families, the office of the superintendent of public instruction, and the department of social and health services, each department shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow these departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. These departments may not share the federal background check results with any other state agency or person.

(4) Individuals who have completed a fingerprint background check as required by the office of the superintendent of public instruction, consistent with RCW 28A.400.303, and have been continuously employed by the same school district or educational service district, can meet the requirements in subsection (2) of this section by providing a true and accurate copy of their Washington state patrol and federal bureau of investigation background check report results to the department or if the school district or the educational service district provides an affidavit to the department that the individual has been authorized to work by the school district or educational service district after completing a record check consistent with RCW 28A.400.303. The department may require that additional background checks be completed that do not require additional fingerprinting and, except during fiscal year 2023, may charge a fee for these additional background checks. [2022 c 297 § 960; 2020 c 270 § 9. Prior: 2018 c 59 § 1; 2018 c 58 § 69; prior: 2017 3rd sp.s. c 33 § 6; 2017 3rd sp.s. c 6 § 206; prior: 2011 c 295 § 2; 2011 c 253 § 4; 2007 c 415 § 5. Formerly RCW 43.215.215.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Effective date—2020 c 270: See note following RCW 74.13.720.

Effective date—2018 c 59: "This act takes effect July 1, 2018." [2018 c 59 § 2.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.271 Background check clearance registry—Background application form. Subject to appropriation, the department shall maintain an individual-based or portable background check clearance registry. Any individual seeking a child care license or employment in any child care facility or outdoor nature-based child care program licensed or regulated under current law shall submit a background application on a form prescribed by the department in rule. [2021 c 304 § 12; 2017 3rd sp.s. c 6 § 207; 2011 c 295 § 1. Formerly RCW 43.215.216.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.272 Fee for developing and administering individual-based/portable background check clearance registry. All agency licensees shall pay the department a one-time fee established by the department. When establishing the fee, the department must consider the cost of developing and administering the registry, and shall not set a fee which is estimated to generate revenue beyond estimated costs for the development and administration of the registry. Fee revenues must be deposited in the individual-based/portable background check clearance account created in RCW 43.216.273 and may be expended only for the costs of developing and administering the individual-based/portable background check clearance registry created in RCW 43.216.271. [2017 3rd sp.s. c 6 § 208; 2011 c 295 § 4. Formerly RCW 43.215.217.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.273 Individual-based/portable background check clearance account. The individual-based/portable background check clearance account is created in the custody of the state treasurer. All fees collected pursuant to RCW 43.216.270 and 43.216.272 must be deposited in the account. Expenditures from the account may be made only for development and administration, and implementation of the individual-based/portable background check registry established in RCW 43.216.271. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2017 3rd sp.s. c 6 § 209; 2011 c 295 § 5. Formerly RCW 43.215.218.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.280 Licensed day care centers and outdoor nature-based child care providers—Notice of pesticide use. Licensed child day care centers and outdoor nature-based child care providers shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW. [2021 c 304 § 13; 2006 c 265 § 303. Formerly RCW 43.215.220.]

43.216.285 Articles of incorporation. A copy of the articles of incorporation of any agency or amendments to the articles of existing corporation agencies shall be sent by the

secretary of state to the department at the time such articles or amendments are filed. [2006 c 265 § 304. Formerly RCW 43.215.230.]

43.216.290 Access to agencies—Records inspection.

All agencies subject to this chapter shall accord the department, the chief of the Washington state patrol, and the director of fire protection, or their designees, the right of entrance and the privilege of access to and inspection of records for the purpose of determining whether or not there is compliance with the provisions of this chapter and the requirements adopted under it. [2006 c 265 § 305. Formerly RCW 43.215.240.]

43.216.295 License required. (1) It is unlawful for any agency to care for children unless the agency is licensed as provided in this chapter.

(2) A license issued under chapter 74.15 RCW before July 1, 2006, for an agency subject to this chapter after July 1, 2006, is valid until its next renewal, unless otherwise suspended or revoked by the department. [2006 c 265 § 306. Formerly RCW 43.215.250.]

43.216.300 License fees. (Effective until June 30, 2023.) The secretary may not charge fees to the licensee for obtaining a child care license. [2021 c 304 § 29; 2018 c 58 § 41; 2007 c 17 § 1. Formerly RCW 43.215.255.]

Expiration date—2021 c 304 § 29: "Section 29 of this act expires June 30, 2023." [2021 c 304 § 34.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.300 License fees. (Effective June 30, 2023.) (1) The secretary shall charge fees to the licensee for obtaining a license. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) The secretary shall establish the fees charged by rule. [2018 c 58 § 41; 2007 c 17 § 1. Formerly RCW 43.215.255.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.305 License application—Nonexpiring licenses—Issuance, renewal, transfer, duration. (1) Each agency shall make application for a license or the continuation of a full license to the department using a method prescribed by the department. Upon receipt of such application, the department shall either grant or deny a license or continuation of a full license within ninety days. A license or continuation shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental requirements consistent with this chapter, except that an initial license may be issued as provided in RCW 43.216.315. The department shall consider whether an agency is in good standing, as defined in subsection (4)(b) of this section, before granting a continuation of a full license. Full licenses provided for in this chapter shall continue to remain valid so long as the licensee meets the requirements for a nonexpiring

license in subsection (2) of this section and may be transferred to a new licensee in the event of a transfer of ownership of a child care operation. The licensee, however, shall advise the secretary of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move.

(2) In order to qualify for a nonexpiring full license, a licensee must meet the following requirements on an annual basis as established from the date of initial licensure:

(a) Submit the annual licensing fee;

(b) Submit a declaration to the department indicating the licensee's intent to continue operating a licensed child care program, or the intent to cease operation on a date certain;

(c) Submit a declaration of compliance with all licensing rules; and

(d) For all current employees of the agency and as defined by department rule, submit background check applications into the department's electronic workforce registry on the schedule established by the department.

(3) If a licensee fails to meet the requirements in subsection (2) of this section for continuation of a full license the license expires and the licensee must submit a new application for licensure under this chapter.

(4)(a) Nothing about the nonexpiring license process may interfere with the department's established monitoring practice.

(b) For the purpose of this section, an agency is considered to be in good standing if in the intervening period between monitoring visits the agency does not have any of the following:

(i) Valid complaints;

(ii) A history of noncompliance related to those valid complaints or pending from prior monitoring visits; or

(iii) Other information that when evaluated would result in a finding of noncompliance with this section.

(c) The department shall consider whether an agency is in good standing when determining the most appropriate approach and process for monitoring visits, for the purposes of administrative efficiency while protecting children, consistent with this chapter. If the department determines that an agency is not in good standing, the department may issue a probationary license, as provided in RCW 43.216.320. [2021 c 304 § 14; 2020 c 343 § 5; 2018 c 58 § 40; 2011 c 297 § 1; 2006 c 265 § 307. Formerly RCW 43.215.260.]

Short title—Findings—Intent—2020 c 343: See notes following RCW 43.216.514.

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.310 License renewal. (1) If a licensee desires to apply for a renewal of its license, a request for a renewal shall be filed ninety days before the expiration date of the license. If the department has failed to act at the time of the expiration date of the license, the license shall continue in effect until such time as the department acts.

(2) License renewal under this section does not apply to nonexpiring licenses described in *RCW 43.215.260. [2011 c 297 § 3; 2006 c 265 § 308. Formerly RCW 43.215.270.]

*Reviser's note: RCW 43.215.260 was recodified as RCW 43.216.305 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

43.216.315 Initial licenses. The secretary may, at his or her discretion, issue an initial license instead of a full license, to an agency or facility for a period not to exceed six months, renewable for a period not to exceed two years, to allow such agency or facility reasonable time to become eligible for full license. [2018 c 58 § 39; 2006 c 265 § 309. Formerly RCW 43.215.280.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.320 Probationary licenses. (1) The department may issue a probationary license to a licensee who has had an initial, expiring, or other license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) Before issuing a probationary license, the department shall, in writing, refer the licensee to the child care resource and referral network or other appropriate resource for technical assistance. The department may issue a probationary license pursuant to subsection (1) of this section if within fifteen working days after the department has sent its referral:

(a) The licensee, in writing, has refused the department's referral for technical assistance; or

(b) The licensee has failed to respond in writing to the department's referral for technical assistance.

(3) If the licensee accepts the department's referral for technical assistance issued under subsection (2) of this section, the department, the licensee, and the technical assistance provider shall meet within thirty days after the licensee's acceptance. The licensee and the department, in consultation with the technical assistance provider, shall develop a plan to correct the areas of noncompliance identified by the department. If, after sixty days, the licensee has not corrected the areas of noncompliance identified in the plan developed in consultation with the technical assistance provider, the department may issue a probationary license pursuant to subsection (1) of this section.

(4) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

(5) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

(6) An existing license is invalidated when a probationary license is issued.

(7) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

(8) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license. [2011 c 297 § 2; 2006 c 265 § 310. Formerly RCW 43.215.290.]

43.216.325 Licenses—Denial, suspension, revocation, modification, nonrenewal—Proceedings—Penalties.

(1) An agency may be denied a license, or any license issued pursuant to this chapter may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of this chapter or the requirements adopted pursuant to this chapter; or (b) that the conditions required for the issuance of a license under this chapter have ceased to exist with respect to such licenses. RCW 43.216.327 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(3)(a) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under this chapter or that an agency subject to licensing under this chapter is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home.

(b) Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance.

(c) Civil monetary penalties shall not exceed one hundred fifty dollars per violation for a family day care home and two hundred fifty dollars per violation for child day care centers or outdoor nature-based child care programs. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(d) The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period.

(e) The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. RCW 43.216.335 governs notice of a civil monetary penalty and provides the right to an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(4)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day care center, outdoor nature-based child care provider, or family day care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been

taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day care center, outdoor nature-based child care provider, or family day care provider is placed on nonreferral status, the department shall provide written notification to the child day care center, outdoor nature-based child care provider, or family day care provider.

(5) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day care center, outdoor nature-based child care provider, or family day care provider; or (b) place or remove a child day care center, outdoor nature-based child care provider, or family day care provider on nonreferral status. [2021 c 304 § 15; 2018 c 58 § 38; 2011 c 296 § 1; 2007 c 17 § 2; 2006 c 265 § 311. Formerly RCW 43.215.300.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Additional notes found at www.leg.wa.gov

43.216.327 Licenses—Denial, revocation, suspension, or modification—Notice—Effective date of action—Adjudicative proceeding. (1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the division of child support that the licensee is a person who is not in compliance with a support order, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a support order under chapter 74.20A RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-

eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days' notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days' notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [2007 c 17 § 3. Formerly RCW 43.215.305.]

43.216.335 Civil fines—Notice—Adjudicative proceeding. (1) The department shall give written notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in another manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner that shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [2007 c 17 § 4. Formerly RCW 43.215.307.]

43.216.340 License pending compliance with state building code, chapter 19.27 RCW—Consultation with local officials. (1) Before requiring any alterations to a child care facility due to inconsistencies with requirements in chapter 19.27 RCW, the department shall:

(a) Consult with the city or county enforcement official; and

(b) Receive written verification from the city or county enforcement official that the alteration is required.

(2) The department's consultation with the city or county enforcement official is limited to licensed child care space.

(3) Unless there is imminent danger to children or staff, the department may not modify, suspend, or revoke a child care license or business activities while the department is waiting to:

(a) Consult with the city or county enforcement official under subsection (1)(a) of this section; or

(b) Receive written verification from the city or county enforcement official that the alteration is required under subsection (1)(b) of this section.

(4) For the purposes of this section, "child care facility" means a family day care home, school-age care, outdoor nature-based child care, and child day care center. [2021 c 304 § 16; 2014 c 9 § 1. Formerly RCW 43.215.308.]

43.216.345 Adjudicative proceedings—Training for administrative law judges. (1) The office of administrative hearings shall not assign nor allow an administrative law judge to preside over an adjudicative hearing regarding denial, modification, suspension, or revocation of any license to provide child care under this chapter, unless such judge has received training related to state and federal laws and department policies and procedures regarding:

(a) Child abuse, neglect, and maltreatment;

(b) Child protective services investigations and standards;

(c) Licensing activities and standards;

(d) Child development; and

(e) Parenting skills.

(2) The office of administrative hearings shall develop and implement a training program that carries out the requirements of this section. The office of administrative hearings shall consult and coordinate with the department in developing the training program. The department may assist the office of administrative hearings in developing and providing training to administrative law judges. [2006 c 265 § 312. Formerly RCW 43.215.310.]

43.216.350 License or certificate suspension—Non-compliance with support order—Reissuance. The secretary shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the secretary's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [2018 c 58 § 37; 2006 c 265 § 313. Formerly RCW 43.215.320.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.355 Actions against agencies. Notwithstanding the existence or pursuit of any other remedy, the secretary

may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceeding, maintain an action in the name of the state for injunction or such other relief as he or she may deem advisable against any agency subject to licensing under the provisions of this chapter or against any such agency not having a license as heretofore provided in this chapter. [2018 c 58 § 36; 2006 c 265 § 314. Formerly RCW 43.215.330.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.360 Unlicensed providers—Notification to agency—Penalty—Posting on website. When the department suspects that an agency is providing child care services without a license, it shall send notice to that agency within ten days. The notice shall include, but not be limited to, the following information:

(1) That a license is required and the reasons why;

(2) That the agency is suspected of providing child care without a license;

(3) That the agency must immediately stop providing child care until the agency becomes licensed;

(4) That the department can issue a penalty of one hundred fifty dollars per day for each day a family day care home provided care without being licensed and two hundred fifty dollars for each day a child day care center or outdoor nature-based child care provider provided care without being licensed;

(5) That if the agency does not initiate the licensing process within thirty days of the date of the notice, the department will post on its website that the agency is providing child care without a license. [2021 c 304 § 17; 2011 c 296 § 3. Formerly RCW 43.215.335.]

Additional notes found at www.leg.wa.gov

43.216.365 Operating without a license—Penalty. Any agency operating without a license shall be guilty of a misdemeanor. This section shall not be enforceable against an agency until sixty days after the effective date of new rules, applicable to such agency, have been adopted under this chapter. [2006 c 265 § 315. Formerly RCW 43.215.340.]

43.216.370 Negotiated rule making. The secretary shall have the power and it shall be the secretary's duty to engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the family child care licensees selected in accordance with RCW 43.216.375 and with other affected interests before adopting requirements that affect family child care licensees. [2018 c 58 § 35; 2007 c 17 § 15. Formerly RCW 43.215.350.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

43.216.375 Negotiated rule making—Statewide unit of family child care licensees—Antitrust immunity, intent. (1) Solely for the purposes of negotiated rule making pursuant to RCW 34.05.310(2)(a) and *43.215.350, a statewide unit of all family child care licensees is appropriate. As of June 7, 2006, the exclusive representative of family child care licensees in the statewide unit shall be the representative selected as the majority representative in the election held under the directive of the governor to the secretary of the department of social and health services, dated September 16,

2005. If family child care licensees seek to select a different representative thereafter, the family child care licensees may request that the American arbitration association conduct an election and certify the results of the election.

(2) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of family child care licensees and their exclusive representative to the extent such activities are authorized by this chapter. [2007 c 17 § 16. Formerly RCW 43.215.355.]

*Reviser's note: RCW 43.215.350 was recodified as RCW 43.216.370 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

43.216.380 Minimum licensing requirements—Window blind pull cords. (1) Minimum licensing requirements under this chapter shall include a prohibition on the use of window blinds or other window coverings with pull cords or inner cords capable of forming a loop and posing a risk of strangulation to young children. Window blinds and other coverings that have been manufactured or properly retrofitted in a manner that eliminates the formation of loops posing a risk of strangulation are not prohibited under this section.

(2) When developing and periodically reviewing minimum licensing requirements related to safety of the premises, the secretary shall consult and give serious consideration to publications of the United States consumer product safety commission.

(3) The department may provide information as available regarding reduced cost or no-cost options for retrofitting or replacing unsafe window blinds and window coverings. [2018 c 58 § 67; 2007 c 299 § 1. Formerly RCW 43.215.360.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Additional notes found at www.leg.wa.gov

43.216.385 Reporting—Actions against agency licensees—Agencies notified of licensing requirement—Posting on website. For the purposes of reporting actions taken against agency licensees, upon the development of an early learning information system, the following actions shall be posted to the department's website accessible by the public: Suspension, surrender, revocation, denial, stayed suspension, or reinstatement of a license. The department shall also post on the website those agencies subject to licensing that have not initiated the licensing process within thirty days of the department's notification as required in *RCW 43.215.300. [2011 c 296 § 2; 2007 c 415 § 9. Formerly RCW 43.215.370.]

*Reviser's note: RCW 43.215.300 was recodified as RCW 43.216.325 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

Additional notes found at www.leg.wa.gov

43.216.390 Reporting resignation or termination of individual working in child care agency. Upon resignation or termination with or without cause of any individual working in a child care agency, the child care agency shall report to the department within twenty-four hours if it has knowledge of the following with respect to the individual:

(1) Any charge or conviction for a crime listed in WAC 110-06-0120;

(2) Any other charge or conviction for a crime that could be reasonably related to the individual's suitability to provide care for or have unsupervised access to children or care; or

(3) Any negative action as defined in RCW 43.216.010. [2019 c 470 § 13; 2011 c 295 § 6. Formerly RCW 43.215.371.]

43.216.395 Child care inspection reports—Internal review process—Definitions—Final review. (1) The department shall develop an internal review process to determine whether department licensors have appropriately and consistently applied agency rules in inspection reports that do not involve a violation of health and safety standards. Adverse licensing decisions including license denial, suspension, revocation, modification, or nonrenewal pursuant to RCW 43.216.325 or imposition of civil fines pursuant to RCW 43.216.335 are not subject to the internal review process in this section, but may be appealed using the administrative procedure act, chapter 34.05 RCW.

(2) The definitions in this subsection apply throughout this section.

(a) "Child care facility licensing compliance agreement" means an agreement issued by the department in lieu of the department taking enforcement action against a child care provider that contains: (i) A description of the violation and the rule or law that was violated; (ii) a statement from the licensee regarding the proposed plan to comply with the rule or law; (iii) the date the violation must be corrected; (iv) information regarding other licensing action that may be imposed if compliance does not occur by the required date; and (v) the signature of the licensor and licensee or the licensee's delegate.

(b) "Health and safety standards" means rules or requirements developed by the department to protect the health and safety of children against risk of bodily, mental, or psychological injury, harm, illness, or death.

(3) The internal review process shall be conducted by the following six individuals:

(a) Three department employees who may include child care licensors; and

(b) Three child care providers selected by the department from names submitted by the oversight board for children, youth, and families established in RCW 43.216.015.

(4) The internal review process established in this section may overturn, change, or uphold a department licensing decision by majority vote. In the event that the six individuals conducting the internal review process are equally divided, the secretary or the secretary's designee shall make the decision of the internal review process. The internal review process must provide the parties with a written decision of the outcome after completion of the internal review process. A licensee must request a review under the internal review process within ten days of the development of an inspection report and the internal review process must be completed within sixty days after the request from the licensee to initiate the internal review process is received.

(5) A licensee may request a final review by the oversight board for children, youth, and families after completing the internal review process established in this section by giving notice to the department and the oversight board for children, youth, and families within ten days of receiving the

written decision produced by the internal review process. [2021 c 304 § 18; 2017 3rd sp.s. c 6 § 114.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

EARLY CHILDHOOD EDUCATION AND ASSISTANCE

43.216.500 Intent. It is the intent of the legislature to establish an early childhood state education and assistance program. This special assistance program is a voluntary enrichment program to help prepare some children to enter the common school system and shall be offered only as funds are available. This program is not a part of the basic program of education which must be fully funded by the legislature under Article IX, section 1 of the state Constitution. [1994 c 166 § 1; 1985 c 418 § 1. Formerly RCW 43.215.400, 28A.215.100, 28A.34A.010.]

Additional notes found at www.leg.wa.gov

43.216.505 Definitions. (Effective until July 1, 2026.) Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.216.500 through 43.216.559, 43.216.900, and 43.216.901.

(1) "Advisory committee" means the advisory committee under RCW 43.216.520.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and 43.216.901 and are designated as eligible for funding by the department under RCW 43.216.530 and 43.216.540.

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

(4) "Eligible child" means a three to five-year old child who is not age-eligible for kindergarten, is not a participant in a federal or state program providing comprehensive services, and who:

(a) Has a family income at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services;

(b) Is eligible for special education due to disability under RCW 28A.155.020; or

(c) Meets criteria under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Preference for enrollment in this group shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

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

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

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

(c) Further their education and training;

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

[Title 43 RCW—page 762]

(e) Increase their self-reliance.

(6) "Homeless" means a child without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2021. [2021 c 67 § 1; 2019 c 408 § 2; 2017 3rd sp.s. c 6 § 210; 2014 c 160 § 4; 2014 c 160 § 3; 2013 2nd sp.s. c 16 § 4. Prior: 2010 c 231 § 7; 2006 c 265 § 210; 1999 c 350 § 1; 1994 c 166 § 2; 1990 c 33 § 213; 1988 c 174 § 2; 1985 c 418 § 2. Formerly RCW 43.215.405, 28A.215.110, 28A.34A.020.]

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Effective date—2014 c 160 § 4: "Section 4 of this act takes effect June 30, 2018." [2014 c 160 § 5.]

Findings—Intent—2013 2nd sp.s. c 16: "The legislature finds that high quality early learning opportunities are an important factor in lifelong success. The legislature is committed to expanding high quality evidence-based early learning opportunities in order to improve educational outcomes. The legislature further finds that moving toward effective and research-based practices are critical in achieving educational and societal outcomes from early learning investments. The legislature intends to continue improvements in early learning through ongoing evaluation, application of emerging research, and enhanced quality assurance. It is the intent of the legislature that additional investments in early learning will be based on current information regarding the most efficient, research-based, and cost-effective investments." [2013 2nd sp.s. c 16 § 1.]

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

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

Additional notes found at www.leg.wa.gov

43.216.505 Definitions. (Effective July 1, 2026.) Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.216.500 through 43.216.559, 43.216.900, and 43.216.901.

(1) "Advisory committee" means the advisory committee under RCW 43.216.520.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and 43.216.901 and are designated as eligible for funding by the department under RCW 43.216.530 and 43.216.540.

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

(4) "Eligible child" means a three to five-year old child who is not age-eligible for kindergarten, is not a participant in a federal or state program providing comprehensive services, and who:

(a) Has a family with financial need;

(b) Is experiencing homelessness;

(2022 Ed.)

(c) Has participated in early head start or a successor federal program providing comprehensive services for children from birth through two years of age, the early support for infants and toddlers program or received class C developmental services, the birth to three early childhood education and assistance program, or the early childhood intervention and prevention services program;

(d) Is eligible for special education due to disability under RCW 28A.155.020;

(e) Is Indian as defined in rule by the department after consultation and agreement with Washington state's federally recognized tribes pursuant to RCW 43.216.5052 and is at or below 100 percent of the state median income adjusted for family size; or

(f) Meets criteria under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Preference for enrollment in this group shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(5) "Experiencing homelessness" means a child without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2021.

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

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

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

(c) Further their education and training;

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

(e) Increase their self-reliance; and

(f) Connect with culturally competent, disability positive therapists and supports where appropriate.

(7) "Family with financial need" means families with incomes at or below 36 percent of the state median income adjusted for family size until the 2030-31 school year. Beginning in the 2030-31 school year, "family with financial need" means families with incomes at or below 50 percent of the state median income adjusted for family size. [2021 c 199 § 204; 2021 c 67 § 1; 2019 c 408 § 2; 2017 3rd sp.s. c 6 § 210; 2014 c 160 § 4; 2014 c 160 § 3; 2013 2nd sp.s. c 16 § 4. Prior: 2010 c 231 § 7; 2006 c 265 § 210; 1999 c 350 § 1; 1994 c 166 § 2; 1990 c 33 § 213; 1988 c 174 § 2; 1985 c 418 § 2. Formerly RCW 43.215.405, 28A.215.110, 28A.34A.020.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2021 c 199 §§ 204-206 and 403: "Sections 204 through 206 and 403 of this act take effect July 1, 2026." [2021 c 199 § 604.]

Findings—Intent—2021 c 199 §§ 204-208: See note following RCW 43.216.513.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

(2022 Ed.)

Effective date—2014 c 160 § 4: "Section 4 of this act takes effect June 30, 2018." [2014 c 160 § 5.]

Findings—Intent—2013 2nd sp.s. c 16: "The legislature finds that high quality early learning opportunities are an important factor in lifelong success. The legislature is committed to expanding high quality evidence-based early learning opportunities in order to improve educational outcomes. The legislature further finds that moving toward effective and research-based practices are critical in achieving educational and societal outcomes from early learning investments. The legislature intends to continue improvements in early learning through ongoing evaluation, application of emerging research, and enhanced quality assurance. It is the intent of the legislature that additional investments in early learning will be based on current information regarding the most efficient, research-based, and cost-effective investments." [2013 2nd sp.s. c 16 § 1.]

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

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

Additional notes found at www.leg.wa.gov

43.216.5052 Definition of "Indian"—Rule making. (Expires December 1, 2030.)

(1) The department must consult, and obtain the advice and consent of, the governing bodies of the state's federally recognized tribes in developing an agreed-upon definition of the term "Indian" for the purposes of RCW 43.216.505 and, by July 1, 2024, must adopt the definition in rule.

(2) This section expires December 1, 2030. [2021 c 199 § 207.]

Findings—Intent—2021 c 199 §§ 204-208: See note following RCW 43.216.513.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.510 Admission and funding. The department shall administer a state-supported early childhood education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved early childhood programs to the extent that the legislature provides funds, and additional children may be admitted to the extent that grants and contributions from community sources provide sufficient funds for a program equivalent to that supported by state funds. Grants and contributions from community sources shall not supplant the funding required for the full statewide implementation of the early learning program in *RCW 43.215.456. [2017 c 178 § 4; 2006 c 265 § 211; 1994 c 166 § 4; 1988 c 174 § 3; 1985 c 418 § 3. Formerly RCW 43.215.410, 28A.215.120, 28A.34A.030.]

***Reviser's note:** RCW 43.215.456 was recodified as RCW 43.216.556 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

Intent—2017 c 178: See note following RCW 43.216.080.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.216.505.

Additional notes found at www.leg.wa.gov

43.216.512 Expanded enrollment—Risk factors—Participation in other programs. (Effective until July 1, 2026.)

(1) The department shall adopt rules that allow the enrollment of children in the early childhood education and assistance program, as space is available if the number of such children equals not more than twenty-five percent of total statewide enrollment, whose family income is:

- (a) Above one hundred ten percent but less than or equal to one hundred thirty percent of the federal poverty level; or
- (b) Above one hundred thirty percent but less than or equal to two hundred percent of the federal poverty level if the child meets at least one of the risk factor criterion described in subsection (2) of this section.

(2) Children enrolled in the early childhood education and assistance program pursuant to subsection (1)(b) of this section must be prioritized for available funded slots according to a prioritization system adopted in rule by the department that considers risk factors that have a disproportionate effect on kindergarten readiness and school performance, including:

- (a) Family income as a percent of the federal poverty level;
- (b) Homelessness;
- (c) Child welfare system involvement;
- (d) Developmental delay or disability that does not meet the eligibility criteria for special education described in RCW 28A.155.020;
- (e) Domestic violence;
- (f) English as a second language;
- (g) Expulsion from an early learning setting;
- (h) A parent who is incarcerated;
- (i) A parent with a substance use disorder or mental health treatment need; and
- (j) Other risk factors determined by the department to be linked by research to school performance.

(3) The department shall adopt rules that allow a child to enroll in the early childhood education and assistance program, as space is available, when the child is not eligible under RCW 43.216.505 and the child turns three years old at any time during the school year when the child:

- (a) Has a family income at or below two hundred percent of the federal poverty level or meets at least one risk factor criterion adopted by the department in rule; and
- (b) Has received services from or participated in:
 - (i) The early support for infants and toddlers program;
 - (ii) The early head start or a successor federal program providing comprehensive services for children from birth through two years of age; or
 - (iii) The birth to three early childhood education and assistance program, if such a program is established.

(4) Children enrolled in the early childhood education and assistance program under this section are not considered eligible children as defined in RCW 43.216.505 and are not considered to be part of the state-funded entitlement required in RCW 43.216.556. [2019 c 409 § 2; 2019 c 408 § 5; 2018 c 155 § 2.]

Contingent effective dates—2019 c 409 §§ 1 and 2: "(1) Section 2 of this act takes effect only if chapter 408, Laws of 2019 is enacted by July 28, 2019.

(2) Section 1 of this act takes effect only if section 2 of this act does not take effect by July 28, 2019." [2019 c 409 § 3.] Second Substitute Senate Bill No. 5437 was enacted into law May 21, 2019.

Contingent effective dates—2019 c 408 §§ 4 and 5: "(1) Section 5 of this act takes effect only if chapter 409, Laws of 2019 is enacted by July 28, 2019.

(2) Section 4 of this act takes effect only if section 5 of this act does not take effect by July 28, 2019." [2019 c 408 § 13.] Substitute Senate Bill No. 5089 was enacted into law May 21, 2019.

Findings—Intent—2019 c 408: "The legislature finds that the family income eligibility limit of one hundred ten percent of the federal poverty level for the early childhood education and assistance program hinders the state's ability to recruit and enroll qualified families, particularly in rural areas of the state and in tribal communities. This income barrier results in unused preschool slots and growing waiting lists of children who are from low-income families but who are over the established income limits. Therefore, the legislature intends to keep the qualifying income for the early childhood education and assistance program at one hundred ten percent of the federal poverty level for the purposes of entitlement caseload forecasting and allow for the flexibility to serve additional children with family incomes up to two hundred percent of the federal poverty level." [2019 c 408 § 1.]

Effective date—2018 c 155: "This act takes effect July 1, 2018." [2018 c 155 § 5.]

Findings—Intent—2018 c 155: "The legislature finds that research continues to demonstrate the efficacy of the state's early childhood education and assistance program, known as ECEAP. Studies in Washington and from other states show that ECEAP prepares children for kindergarten success and has significant positive impacts on third, fourth, and fifth grade test scores. The legislature also finds that in some areas of the state, expanding ECEAP has proven challenging because there are too few eligible children to form an ECEAP classroom. The result is that children who are income eligible and the furthest from opportunity remain unserved. The legislature finds further that in other ECEAP classrooms, funded seats remain empty because providers do not have sufficient flexibility to serve families in need who are slightly over income but often have similar risk factors. The legislature intends, therefore, to provide more flexibility in determining eligibility for ECEAP in order to maximize the state's investment and assure that program funding is deployed to serve the greatest number of children and families." [2018 c 155 § 1.]

43.216.512 Expanded enrollment—Risk factors. (Effective July 1, 2026, until August 1, 2030.)

(1) The department shall adopt rules that allow the enrollment of children in the early childhood education and assistance program, as space is available, if the number of such children equals not more than 25 percent of total statewide enrollment, when the child is not eligible under RCW 43.216.505 and whose family income level is above 36 percent of the state median income but at or below 50 percent of the state median income adjusted for family size and the child meets at least one of the risk factor criterion described in subsection (2) of this section.

(2) Children enrolled in the early childhood education and assistance program pursuant to this section must be prioritized for available funded slots according to a prioritization system adopted in rule by the department that considers risk factors that have a disproportionate effect on kindergarten readiness and school performance, including:

- (a) Family income as a percent of the state median income;
- (b) Child welfare system involvement;
- (c) Eligible for services under part C of the federal individuals with disabilities education act but not eligible for services under part B of the federal individuals with disabilities education act;
- (d) Domestic violence;
- (e) English as a second language;
- (f) Expulsion from an early learning setting;
- (g) A parent who is incarcerated;
- (h) A parent with a behavioral health treatment need; and

(i) Other risk factors determined by the department to be linked by research to school performance.

(3) Children enrolled in the early childhood education and assistance program under this section are not considered eligible children as defined in RCW 43.216.505 and are not considered to be part of the state-funded entitlement required in RCW 43.216.556.

(4) This section expires August 1, 2030. [2021 c 199 § 205; 2019 c 409 § 2; 2019 c 408 § 5; 2018 c 155 § 2.]

Effective date—2021 c 199 §§ 204-206 and 403: See note following RCW 43.216.505.

Findings—Intent—2021 c 199 §§ 204-208: See note following RCW 43.216.513.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Contingent effective dates—2019 c 409 §§ 1 and 2: "(1) Section 2 of this act takes effect only if chapter 408, Laws of 2019 is enacted by July 28, 2019.

(2) Section 1 of this act takes effect only if section 2 of this act does not take effect by July 28, 2019." [2019 c 409 § 3.] Second Substitute Senate Bill No. 5437 was enacted into law May 21, 2019.

Contingent effective dates—2019 c 408 §§ 4 and 5: "(1) Section 5 of this act takes effect only if chapter 409, Laws of 2019 is enacted by July 28, 2019.

(2) Section 4 of this act takes effect only if section 5 of this act does not take effect by July 28, 2019." [2019 c 408 § 13.] Substitute Senate Bill No. 5089 was enacted into law May 21, 2019.

Findings—Intent—2019 c 408: "The legislature finds that the family income eligibility limit of one hundred ten percent of the federal poverty level for the early childhood education and assistance program hinders the state's ability to recruit and enroll qualified families, particularly in rural areas of the state and in tribal communities. This income barrier results in unused preschool slots and growing waiting lists of children who are from low-income families but who are over the established income limits. Therefore, the legislature intends to keep the qualifying income for the early childhood education and assistance program at one hundred ten percent of the federal poverty level for the purposes of entitlement caseload forecasting and allow for the flexibility to serve additional children with family incomes up to two hundred percent of the federal poverty level." [2019 c 408 § 1.]

Effective date—2018 c 155: "This act takes effect July 1, 2018." [2018 c 155 § 5.]

Findings—Intent—2018 c 155: "The legislature finds that research continues to demonstrate the efficacy of the state's early childhood education and assistance program, known as ECEAP. Studies in Washington and from other states show that ECEAP prepares children for kindergarten success and has significant positive impacts on third, fourth, and fifth grade test scores. The legislature also finds that in some areas of the state, expanding ECEAP has proven challenging because there are too few eligible children to form an ECEAP classroom. The result is that children who are income eligible and the furthest from opportunity remain unserved. The legislature finds further that in other ECEAP classrooms, funded seats remain empty because providers do not have sufficient flexibility to serve families in need who are slightly over income but often have similar risk factors. The legislature intends, therefore, to provide more flexibility in determining eligibility for ECEAP in order to maximize the state's investment and assure that program funding is deployed to serve the greatest number of children and families." [2018 c 155 § 1.]

43.216.513 Early entry—Participation in other programs. (Effective July 1, 2026.) (1) The department shall adopt rules that allow a child to enroll in the early childhood education and assistance program, as space is available and subject to the availability of amounts appropriated for this specific purpose, when the child is not eligible under RCW 43.216.505 and the child turns three years old at any time during the school year when the child:

(a) Has a family income at or below 50 percent of the state median income or meets at least one risk factor criterion adopted by the department in rule; and

(b) Has received services from or participated in:

(i) The early head start or a successor federal program providing comprehensive services for children from birth through two years of age;

(ii) The early support for infants and toddlers program or received class C developmental services;

(iii) The birth to three early childhood education and assistance program; or

(iv) The early childhood intervention and prevention services program.

(2) Children enrolled in the early childhood education and assistance program under this section are not eligible children as defined in RCW 43.216.505 and are not part of the state-funded entitlement required in RCW 43.216.556. [2021 c 199 § 206.]

Findings—Intent—2021 c 199 §§ 204-208: "(1) The legislature finds that eligibility guidelines for the national school lunch program require free meals for children with household incomes at or below 130 percent of the federal poverty level and that this income level is approximately equivalent to 36 percent of the state median income for a household of three. The legislature further finds that eligibility guidelines require reduced-price meals for children with household incomes at or below 185 percent of the federal poverty level and that this income level is approximately equivalent to 50 percent of the state median income for a household of three.

(2) Therefore, the legislature intends to raise the maximum family income for children entitled to enroll in the early childhood education and assistance program to 36 percent of the state median income beginning July 1, 2026. Beginning in the 2030-31 school year, the legislature intends to raise the maximum family income for children entitled to enroll in this program to 50 percent of the state median income. It is the intent of the legislature to standardize income eligibility levels for assistance programs in order to help families and social workers better understand the benefits for which families qualify and to simplify and align state systems wherever feasible.

(3) The legislature further intends to support educational service districts to help school districts partner with early childhood education and assistance program contractors and providers to expand access." [2021 c 199 § 203.]

Effective date—2021 c 199 §§ 204-206 and 403: See note following RCW 43.216.505.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.514 Enrollment priority. (1)(a) The department shall prioritize children for enrollment in the early childhood education and assistance program who are eligible pursuant to RCW 43.216.505.

(b) A child who is eligible at the time of enrollment in the early childhood education and assistance program maintains program eligibility until the child begins kindergarten.

(2) As space is available, children may be included in the early childhood education and assistance program pursuant to RCW 43.216.512. [2021 c 199 § 507; 2020 c 343 § 3; 2019 c 408 § 7; 2018 c 155 § 3.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Short title—2020 c 343: "This act may be known and cited as the rural child care access act." [2020 c 343 § 1.]

Findings—Intent—2020 c 343: "(1) The legislature finds that many rural communities face child care and early learning supply shortages due to factors that include geographic isolation and fewer providers. These shortages contribute to economic challenges in the child care market, undermining child care affordability for families and threatening the viability of child care businesses. Families deserve access to a full range of child care and

early learning choices and providers need stable funding that is essential to meet high quality standards.

(2) The legislature further finds that while federal child care and development fund rules allow child care subsidy rates to exceed private pay rates in order to pay for quality care and health and safety requirements, state rules require child care subsidy rates to be lower than a provider's private pay rate with limited exceptions. This limitation has the effect of forcing child care providers to raise private pay rates when state subsidy rates go up, resulting in families who do not qualify for subsidy leaving licensed care because it has become unaffordable.

(3) Therefore, it is the intent of the legislature to implement policies to relieve providers and families by streamlining child care access, balancing subsidy requirements, and supporting the needs of rural communities." [2020 c 343 § 2.]

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Effective date—Findings—Intent—2018 c 155: See notes following RCW 43.216.512.

43.216.515 Eligible providers—State-funded support—Requirements—Data collection—Pathways to early childhood education and assistance program. (1) Approved early childhood education and assistance programs shall receive state-funded support through the department. Public or private organizations including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations, are eligible to participate as providers of the state early childhood education and assistance program.

(2) Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained.

(3) Persons applying to conduct the early childhood education and assistance program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

(4) A new early childhood education and assistance program provider must complete the requirements in this subsection to be eligible to receive state-funded support under the early childhood education and assistance program:

(a) Enroll in the early achievers program within thirty days of the start date of the early childhood education and assistance program contract;

(b)(i) Except as provided in (b)(ii) of this subsection, rate at a level 4 or 5 in the early achievers program within twenty-four months of enrollment. If an early childhood education and assistance program provider rates below a level 4 within twenty-four months of enrollment, the provider must complete remedial activities with the department, and must rate at or request to be rated at a level 4 or 5 within twelve months of beginning remedial activities.

(ii) Licensed or certified child care centers, family home providers, and outdoor nature-based child care providers that administer an early childhood education and assistance program shall rate at a level 4 or 5 in the early achievers program within twenty-four months of the start date of the early childhood education and assistance program contract. If an early childhood education and assistance program provider rates below a level 4 within twenty-four months, the provider must complete remedial activities with the department, and must

rate at or request to be rated at a level 4 or 5 within twelve months of beginning remedial activities.

(5)(a) If an early childhood education and assistance program provider has successfully completed all of the required early achievers program activities and is waiting to be rated by the deadline provided in this section, the provider may continue to participate in the early achievers program as an approved early childhood education and assistance program provider and receive state subsidy pending the successful completion of a level 4 or 5 rating.

(b) To avoid disruption, the department may allow for early childhood education and assistance program providers who have rated below a level 4 after completion of the twelve-month remedial period to continue to provide services until the current school year is finished.

(c)(i) If the early childhood education and assistance program provider described under subsection (4)(b)(i) or (ii) of this section does not rate or request to be rated at a level 4 or 5 following the remedial period, the provider is not eligible to receive state-funded support under the early childhood education and assistance program under this section.

(ii) If the early childhood education and assistance program provider described under subsection (4)(b)(i) or (ii) of this section does not rate at a level 4 or 5 when the rating is released following the remedial period, the provider is not eligible to receive state-funded support under the early childhood education and assistance program under this section.

(6)(a) When an early childhood education and assistance program in good standing changes classroom locations to a comparable or improved space within the same facility, or to a comparable or improved outdoor location for an outdoor nature-based child care, a rerating is not required outside of the regular rerating and renewal cycle.

(b) When an early childhood education and assistance program in good standing moves to a new facility, or to a new outdoor location for an outdoor nature-based child care, the provider must notify the department of the move within six months of changing locations in order to retain their existing rating. The early achievers program must conduct an observational visit to ensure the new classroom space is of comparable or improved environmental quality. If a provider fails to notify the department within six months of a move, the early achievers rating must be changed from the posted rated level to "Participating, Not Yet Rated" and the provider will cease to receive tiered reimbursement incentives until a new rating is completed.

(7) The department shall collect data periodically to determine the demand for full-day programming for early childhood education and assistance program providers. The department shall analyze this demand by geographic region and shall include the findings in the annual report required under RCW 43.216.089.

(8) The department shall develop multiple pathways for licensed or certified child care centers and homes to administer an early childhood education and assistance program. The pathways shall include an accommodation for these providers to rate at a level 4 or 5 in the early achievers program according to the timelines and standards established in subsection (4)(b)(ii) of this section. The department must consider using the intermediate level that is between level 3 and level 4 as described in RCW 43.216.085, incentives, and front-end

funding in order to encourage providers to participate in the pathway. [2021 c 304 § 19; 2020 c 321 § 1; 2019 c 369 § 3; 2015 3rd sp.s. c 7 § 9; 1994 c 166 § 5; 1988 c 174 § 4; 1985 c 418 § 4. Formerly RCW 43.215.415, 28A.215.130, 28A.34A.040.]

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.216.505.

Additional notes found at www.leg.wa.gov

43.216.520 Advisory committee. The department shall establish an advisory committee composed of interested parents and representatives from the office of the superintendent of public instruction, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the ongoing promotion and operation of the program. [2017 3rd sp.s. c 6 § 211; 2006 c 263 § 413; 1988 c 174 § 5; 1985 c 418 § 5. Formerly RCW 43.215.420, 28A.215.140, 28A.34A.050.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.216.505.

43.216.525 Rules. (1) The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood education and assistance program. Approved early childhood education and assistance programs shall conduct needs assessments of their service area and identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation. Approved early childhood education and assistance programs shall provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

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

(3) By January 1, 2016, the department shall adopt rules requiring early childhood education and assistance program employees who have access to children to submit to a fingerprint background check. Fingerprint background check procedures for the early childhood education and assistance program shall be the same as the background check procedures

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in *RCW 43.215.215. [2015 3rd sp.s. c 7 § 8; 1994 c 166 § 6; 1988 c 174 § 6; 1987 c 518 § 101; 1985 c 418 § 6. Formerly RCW 43.215.425, 28A.215.150, 28A.34A.060.]

***Reviser's note:** RCW 43.215.215 was recodified as RCW 43.216.270 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.216.505.

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

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

The legislature intends further to establish programs that will allow for parental, business, and community involvement in assisting the school systems throughout the state to enhance the ability of children to learn." [1994 c 166 § 7; 1987 c 518 § 1.]

Additional notes found at www.leg.wa.gov

43.216.530 Review of applications. The department shall review applications from public or private organizations for state funding of early childhood education and assistance programs. The department shall consider local community needs, demonstrated capacity, and the need to support a mixed delivery system of early learning that includes alternative models for delivery including licensed centers, outdoor nature-based child care providers, and licensed family child care providers when reviewing applications. [2021 c 304 § 20; 2015 3rd sp.s. c 7 § 10; 2013 c 323 § 7; 1994 c 166 § 8; 1988 c 174 § 7; 1985 c 418 § 7. Formerly RCW 43.215.430, 28A.215.160, 28A.34A.070.]

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.216.505.

Additional notes found at www.leg.wa.gov

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

dents who did not have access to this program needing such services. [1995 c 335 § 501; 1994 c 166 § 9; 1988 c 174 § 8; 1985 c 418 § 8. Formerly RCW 43.215.435, 28A.215.170, 28A.34A.080.]

Findings—1994 c 166; 1988 c 174: See note following RCW 43.216.505.

Additional notes found at www.leg.wa.gov

43.216.540 State support—Priorities—Program funding levels. For the purposes of RCW 43.216.500 through 43.216.550 and 43.216.900 and 43.216.901, the department may award state support under RCW 43.216.500 through 43.216.530 to increase the numbers of eligible children assisted by the federal or state-supported early childhood programs in this state. Priority shall be given to those geographical areas which include a high percentage of families qualifying under the "eligible child" criteria. The overall program funding level shall be based on an average grant per child consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules. [2019 c 408 § 11; 1994 c 166 § 10; 1990 c 33 § 214; 1987 c 518 § 102; 1985 c 418 § 9. Formerly RCW 43.215.440, 28A.215.180, 28A.34A.090.]

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Intent—1994 c 166; 1987 c 518: See note following RCW 43.216.525.

Additional notes found at www.leg.wa.gov

43.216.545 Reimbursement of advisory committee expenses. The department from funds appropriated for the administration of the program under chapter 418, Laws of 1985 shall reimburse the expenses of the advisory committee. [1985 c 418 § 10. Formerly RCW 43.215.445, 28A.215.190, 28A.34A.100.]

43.216.550 Authority to solicit gifts, grants, and support. The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the early childhood state education and assistance program established by RCW 43.216.500 through 43.216.550 and 43.216.900 and 43.216.901. The department shall actively solicit support from business and industry and from the federal government for the state early childhood education and assistance program and shall assist local programs in developing partnerships with the community for eligible children. [2019 c 408 § 12; 1994 c 166 § 11; 1990 c 33 § 215; 1988 c 174 § 9; 1985 c 418 § 11. Formerly RCW 43.215.450, 28A.215.200, 28A.34A.110.]

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Findings—1994 c 166; 1988 c 174: See note following RCW 43.216.505.

Additional notes found at www.leg.wa.gov

43.216.555 Early learning program—Voluntary preschool opportunities—Program standards—Prioritizing programs—Rules. (1) An early learning program to provide voluntary preschool opportunities for children ages three to five years old who are not age-eligible for kindergarten shall be implemented according to the funding and implementation plan in RCW 43.216.556. The program must offer a comprehensive program of early childhood education and family

support, including parental involvement and health information, screening, and referral services, based on family need. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program in RCW 43.216.500 through 43.216.550.

(3)(a) The program implementation in this section shall prioritize early childhood education and assistance programs located in low-income neighborhoods within high-need geographical areas.

(b) Following the priority in (a) of this subsection, preference shall be given to programs meeting at least one of the following characteristics:

(i) Programs offering an extended day program for early care and education;

(ii) Programs offering services to children diagnosed with a special need; or

(iii) Programs offering services to children involved in the child welfare system.

(4) The secretary shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program, consistent with early achievers program standards established in RCW 43.216.085:

(a) Minimum program standards;

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

(5) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the secretary under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers. [2019 c 408 § 9; 2018 c 155 § 4; 2018 c 58 § 34; 2015 3rd sp.s. c 7 § 11; 2010 c 231 § 3. Formerly RCW 43.215.455, 43.215.141.]

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Effective date—Findings—Intent—2018 c 155: See notes following RCW 43.216.512.

Effective date—2018 c 58: See note following RCW 28A.655.080.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.556 Early learning program—Funding and statewide implementation. (1) Funding for the program of early learning established under this chapter must be appropriated to the department. The department shall distribute funding to approved early childhood education and assistance program contractors on the basis of eligible children enrolled.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2026-27 school year.

(3) Funding shall continue to be phased in each year until full statewide implementation of the early learning program is achieved in the 2026-27 school year, at which time any eligible child is entitled to be enrolled in the program. Entitlement under this section is voluntary enrollment.

(4) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers. [2021 c 199 § 208; 2019 c 408 § 3; 2017 3rd sp.s. c 22 § 1; 2015 3rd sp.s. c 7 § 12; 2015 c 128 § 4; 2010 c 231 § 4. Formerly RCW 43.215.456, 43.215.142.]

Findings—Intent—2021 c 199 §§ 204-208: See note following RCW 43.216.513.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.559 Early learning program—Short title—2010 c 231. Chapter 231, Laws of 2010 may be known as the ready for school act of 2010. [2010 c 231 § 9. Formerly RCW 43.215.457, 43.215.143.]

43.216.565 Findings—Intent—Early start program. The legislature finds that the first five years of a child's life establish the foundation for educational success. The legislature also finds that children who have high quality early learning opportunities from birth through age five are more likely to succeed throughout their K-12 education and beyond. The legislature further finds that the benefits of high quality early learning experiences are particularly significant for low-income parents and children, and provide an opportunity to narrow the opportunity gap in Washington's K-12 educational system. The legislature understands that early supports for high-risk parents of young children through home visiting services show a high return on investment due to significantly improved chances of better education, health, and life outcomes for children. The legislature further recognizes that, when parents work or go to school, high quality and full-day early learning opportunities should be available and accessible for their children. In order to improve education outcomes, particularly for low-income children, the legislature is committed to expanding high quality early learning opportunities and integrating currently disparate funding streams for all birth-to-five early learning services including, working connections child care and the early childhood education and assistance program, into a single high quality continuum of learning that provides essential services to low-income families and prepares all enrolled children for success in school. The legislature therefore intends to establish the early start program to provide a continuum of high quality and accountable early learning opportunities for Washington's parents and children. [2013 c 323 § 1. Formerly RCW 43.215.460.]

43.216.567 Early therapeutic and preventative services and programs. (1) Subject to the availability of

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amounts appropriated for this specific purpose, the department shall administer early therapeutic and preventative services and programs, such as the early childhood intervention and prevention services program, and other related services for children who are:

(a) Between the ages of birth and five years; and

(b) Referred by a child welfare worker, a department of social and health services social worker, a primary care physician, a behavioral health provider, or a public health nurse due to: (i) Risk of child abuse or neglect; (ii) exposure to complex trauma; or (iii) significant developmental delays.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall make all reasonable efforts to deliver early therapeutic and preventative services and programs statewide. These services and programs must focus first on children and families furthest from opportunity as defined by income and be delivered by programs that emphasize greater racial equity. [2021 c 199 § 405.]

Findings—Intent—2021 c 199 §§ 402-405: See note following RCW 43.216.577.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.570 Early intervention services—Findings. The legislature finds that there is an urgent and substantial need to:

(1) Enhance the development of infants and toddlers with disabilities in the state of Washington in order to minimize developmental delay and maximize individual potential and enhance the capability of families to meet the needs of their infants and toddlers with disabilities and maintain family integrity;

(2) Coordinate and enhance the state's existing early intervention services to ensure a statewide, community-based, coordinated, interagency program of early intervention services for infants and toddlers with disabilities and their families; and

(3) Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage. [1992 c 198 § 14. Formerly RCW 43.215.470, 70.195.005.]

43.216.572 Early intervention services—Infants and toddlers with disabilities—Interagency coordinating council—Conditions and limitations. For the purposes of implementing this chapter, the governor shall appoint a state interagency coordinating council for infants and toddlers with disabilities and their families and ensure that state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families shall coordinate and collaborate in the planning and delivery of such services.

No state or local agency currently providing early intervention services to infants and toddlers with disabilities may use funds appropriated for early intervention services for infants and toddlers with disabilities to supplant funds from other sources.

All state and local agencies shall ensure that the implementation of this chapter will not cause any interruption in

existing early intervention services for infants and toddlers with disabilities.

Nothing in this chapter shall be construed to permit the restriction or reduction of eligibility under Title V of the Social Security Act, P.L. 90-248, relating to maternal and child health or Title XIX of the Social Security Act, P.L. 89-97, relating to medicaid for infants and toddlers with disabilities. [2020 c 114 § 6; 2016 c 57 § 1; 1998 c 245 § 125; 1992 c 198 § 15. Formerly RCW 43.215.472, 70.195.010.]

Effective date—2020 c 114: See note following RCW 28A.175.075.

43.216.574 Early intervention services—Infants and toddlers with disabilities—Interagency coordinating council—Coordination with counties and communities. The state interagency coordinating council for infants and toddlers with disabilities and their families shall identify and work with county early childhood interagency coordinating councils to coordinate and enhance existing early intervention services and assist each community to meet the needs of infants and toddlers with disabilities and their families. [2020 c 114 § 7; 2016 c 57 § 2; 1992 c 198 § 17. Formerly RCW 43.215.474, 70.195.020.]

Effective date—2020 c 114: See note following RCW 28A.175.075.

43.216.576 Early intervention services—Interagency agreements. The department shall enter into formal interagency agreements, where appropriate, with school districts, counties, and other providers, to define their relationships and financial and service responsibilities. Local agencies or entities, including local school districts, counties, and service providers receiving public money for providing or paying for early intervention services shall enter into formal interagency agreements with each other that define their relationships and financial responsibilities to provide services within each county. In establishing priorities, school districts, counties, and other service providers shall give due regard to the needs of children birth to three years of age and shall ensure that they continue to participate in providing services and collaborate with each other. The interagency agreements shall include procedures for resolving disputes, provisions for establishing maintenance requirements, and all additional components necessary to ensure collaboration and coordination. [2020 c 90 § 5; 1992 c 198 § 16. Formerly RCW 43.215.476, 70.195.030.]

Effective date—2020 c 90: See note following RCW 43.216.580.

43.216.577 Prenatal to three family engagement strategy. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer a prenatal to three family engagement strategy to support expectant parents, babies and toddlers from birth to three years of age, and their caregivers.

(2) Components of the prenatal to three family engagement strategy must include supports and services to improve maternal and infant health outcomes, reduce and mitigate trauma, promote attachment and other social-emotional assets, strengthen parenting skills, and provide early supports to help maximize healthy and robust childhood development and reduce isolation. Services and supports may include:

(a) In-home parent skill-based programs and training established in RCW 43.216.130;

(b) Facilitated play and learn groups;

(c) Parent peer-support groups, including groups designed for families with children with complex needs; families whose primary home language is not English; incarcerated parents; families coping with substance use disorder or mental health support needs; black, indigenous, and families of color; or other specific needs; and

(d) Other prenatal to age three programs and services.

(3) Continuity of services for babies and toddlers are important for early childhood brain development. Therefore, the services and supports described in this section may be made available to biological parents, foster parents, kinship care providers, and other family, friend, and neighbor caregivers. [2021 c 199 § 402.]

Findings—Intent—2021 c 199 §§ 402-405: "(1) The legislature finds that parental relationships and healthy interactions in the first few years of life help shape the development of babies' and toddlers' brains and bodies. Eighty percent of the brain is developed by the age of three and parents are a child's first teachers.

(2) The legislature finds that the federal family first prevention services act (P.L. 115-123) offers the state the opportunity to leverage federal funding for certain programs, including in-home parent skill-based programs, substance use disorder support, and mental health interventions. Culturally relevant, evidence-based programs that may qualify for these federal funds are limited. Therefore, state support may be necessary to serve traditionally underrepresented communities and increase positive engagement from parents and caregivers of children from before birth to age three.

(3) The legislature finds that small teacher-child ratios for infant and toddler care, as well as the existence of child care deserts with low levels of access to care for the birth to three age group, contribute to higher expenses for providers and families with babies and young children.

(4) Therefore, the legislature intends to expand parent and family education and support, incentivize the provision of infant and toddler care, and make early therapeutic and preventative services more readily available to families and young children." [2021 c 199 § 401.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.578 Birth to three early childhood education and assistance program—Pilot project—Reports. (Effective until July 1, 2026.) (1) Within resources available under the federal preschool development grant birth to five grant award received in December 2018, the department shall develop a plan for phased implementation of a birth to three early childhood education and assistance program pilot project for eligible children under thirty-six months old. Funds to implement the pilot project may include a combination of federal, state, or private sources.

(2) The department may adopt rules to implement the pilot project and may waive or adapt early childhood education and assistance program requirements when necessary to allow for the operation of the birth to three early childhood education and assistance program. The department shall consider early head start rules and regulations when developing the provider and family eligibility requirements and program requirements. Any deviations from early head start standards, rules, or regulations must be identified and explained by the department in its annual report under subsection (6) of this section.

(3)(a) Upon securing adequate funds to begin implementation, the pilot project programs must be delivered through child care centers and family home providers who meet minimum licensing standards and are enrolled in the early achievers program.

(b) The department must determine minimum early achievers ratings scores for programs participating in the pilot project.

(4) When selecting pilot project locations for service delivery, the department may allow each pilot project location to have up to three classrooms per location. When selecting and approving pilot project locations, the department shall attempt to select a combination of rural, urban, and suburban locations. The department shall prioritize locations with programs currently operating early head start, head start, or the early childhood education and assistance program.

(5) To be eligible for the birth to three early childhood education and assistance program, a child's family income must be at or below one hundred thirty percent of the federal poverty level and the child must be under thirty-six months old.

(6) Beginning November 1, 2020, and each November 1st thereafter during pilot project activity, the department shall submit an annual report to the governor and legislature that includes a status update that describes the planning work completed, the status of funds secured, and any implementation activities of the pilot project. Implementation activity reports must include a description of the participating programs and number of children and families served. [2019 c 408 § 8.]

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

43.216.578 Birth to three early childhood education and assistance program. (Effective July 1, 2026.) (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer a birth to three early childhood education and assistance program for eligible children under thirty-six months old. Funds to implement the program may include a combination of federal, state, or private sources.

(2) The department may adopt rules to implement the program and may waive or adapt early childhood education and assistance program requirements when necessary to allow for the operation of the birth to three early childhood education and assistance program. The department shall consider early head start rules and regulations when developing the provider and family eligibility requirements and program requirements.

(3)(a) The birth to three early childhood education and assistance program must be delivered through child care centers and family home providers who meet minimum licensing standards and are enrolled in the early achievers program.

(b) The department must determine minimum early achievers ratings scores for participating contractors.

(4) To be eligible for the birth to three early childhood education and assistance program, a child's family income must be at or below 50 percent of the state median income and the child must be under thirty-six months old. [2021 c 199 § 403; 2019 c 408 § 8.]

Effective date—2021 c 199 §§ 204-206 and 403: See note following RCW 43.216.505.

Findings—Intent—2021 c 199 §§ 402-405: See note following RCW 43.216.577.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Findings—Intent—2019 c 408: See note following RCW 43.216.512.

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43.216.579 Infant child care incentives. (1) The legislature finds that our state suffers from an extreme shortage of infant child care, impacting the ability of parents to participate in the workforce. Further, parents returning to work after using paid family leave to care for a new child struggle to find readily available, high quality care during a time of critical growth and brain development for young children. Therefore, the legislature intends to incentivize the provision of high quality infant care.

(2) Beginning July 1, 2022, the department shall provide an infant rate enhancement for licensed or certified child care providers and birth to three early childhood education and assistance program contractors who are:

(a) Accepting state subsidy;

(b) In good standing with the early achievers quality rating and improvement system; and

(c) Caring for a child between the ages of birth and 11 months.

(3) The department must adopt rules to implement this section. [2021 c 199 § 404.]

Findings—Intent—2021 c 199 §§ 402-405: See note following RCW 43.216.577.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.580 Early intervention services—Funding.

(1) The department is the state lead agency for Part C of the federal individuals with disabilities education act. The department shall administer the early support for infants and toddlers program, to provide early intervention services to all eligible children with disabilities from birth to three years of age. Eligibility shall be determined according to Part C of the federal individuals with disabilities education act or other applicable federal and state laws, and as specified in the Washington Administrative Code adopted by the department. Services provided under this section shall not supplant services or funding currently provided in the state for early intervention services to eligible children with disabilities from birth to three years of age.

(2)(a) Funding for the early support for infants and toddlers program shall be appropriated to the department based on the annual average headcount of children ages birth to three who are eligible for and receiving early intervention services, multiplied by the total statewide allocation generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, per the statewide full-time equivalent enrollment in common schools, multiplied by 1.15.

(b) The department shall distribute funds to early intervention services providers, and, when appropriate, to county lead agencies.

(c) For the purposes of this subsection (2), a child is receiving early intervention services if the child has received services within a month prior to the monthly count day.

(3) Federal funds associated with Part C of the federal individuals with disabilities education act shall be subject to payor of last resort requirements pursuant to 34 C.F.R. Sec. 303.510 (2020) for birth-to-three early intervention services provided under this section.

(4) The services in this section are not part of the state's program of basic education pursuant to Article IX of the state

Constitution. [2020 c 90 § 1; 2017 3rd sp.s. c 6 § 216; 2016 c 57 § 3; 2007 c 115 § 7; 2006 c 269 § 2. Formerly RCW 28A.155.065.]

Effective date—2020 c 90: "This act takes effect September 1, 2020." [2020 c 90 § 10.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Conflict with federal requirements—2017 3rd sp.s. c 6: See RCW 43.216.908.

Finding—2006 c 269: "The legislature finds an urgent and substantial need to enhance the development of all infants and toddlers with disabilities in Washington in order to minimize developmental delays and to maximize individual potential for learning and functioning." [2006 c 269 § 1.]

43.216.585 Program rates. (Expires June 30, 2027.)

(1) For the 2021-22 school year, rates for the early childhood education and assistance program must be set at a level at least 10 percent higher than the rates established in section 225, chapter 415, Laws of 2019.

(2) It is the intent of the legislature that rate increases shall be informed by the department's 2020 early childhood education and assistance program rate study.

(3) This section expires June 30, 2027. [2021 c 199 § 302.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.587 Complex needs funds. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer two complex needs funds to promote inclusive, least restrictive environments and to support contractors and providers serving children who have developmental delays, disabilities, behavioral needs, or other unique needs. The department shall work collaboratively with the office of the superintendent of public instruction and providers to best serve children. One fund must support early childhood education and assistance program contractors and providers and birth to three early childhood education and assistance program contractors and providers, and one fund must support licensed or certified child care providers and license-exempt child care programs.

(2) Support may include staffing, programming, therapeutic services, and equipment or technology support. Additional support may include activities to assist families with children expelled or at risk of expulsion from child care, and to help families transition in and out of child care. [2021 c 199 § 303.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.590 Trauma-informed care supports. (1) Beginning July 1, 2022, the department shall provide supports to aid eligible providers in providing trauma-informed care. Trauma-informed care supports may be used by eligible providers for the following purposes:

(a) Additional compensation for individual staff who have an infant and early childhood mental health or other child development specialty credential;

(b) Trauma-informed professional development and training;

(c) The purchase of screening tools and assessment materials;

(d) Supportive services for children with complex needs that are offered as fee-for-service within local communities; or

(e) Other related expenses.

(2) The department must adopt rules to implement this section.

(3) For the purposes of this section, "eligible provider" means: (a) An employee or owner of a licensed or certified child care center or outdoor nature-based care accepting state subsidy; (b) an employee or owner of a licensed family home provider accepting state subsidy; (c) a contractor or provider of the early childhood education and assistance program or birth to three early childhood education and assistance program; (d) a license-exempt child care program; or (e) an early achievers coach. [2021 c 199 § 304.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.592 Dual language designation—Rate enhancement.

(1) Beginning July 1, 2022, the department shall establish a dual language designation and provide subsidy rate enhancements or site-specific grants for licensed or certified child care providers who are accepting state subsidy; early childhood education and assistance program contractors; or birth to three early childhood education and assistance program contractors. It is the intent of the legislature to allow uses of rate enhancements or site-specific grants to include increased wages for individual staff who provide bilingual instruction, professional development training, the purchase of dual language and culturally appropriate curricula and accompanying training programs, instructional materials, or other related expenses.

(2) The department must consult with a culturally and linguistically diverse stakeholder advisory group to develop criteria for the dual language designation.

(3) The department must adopt rules to implement this section. [2021 c 199 § 305.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.595 Early childhood equity grants. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall distribute early childhood equity grants to eligible applicants. Eligible applicants include play and learn groups, licensed or certified child care centers and family home providers, license-exempt child care programs, and early childhood education and assistance program contractors. The equity grants are intended to serve as a step toward expanding access to early learning statewide and transforming Washington's early learning system to make it more inclusive and equitable. The department shall administer the early childhood equity grants to support inclusive and culturally and linguistically specific early learning and early childhood and parent support programs across the state.

(2) The department must conduct an equitable process to prioritize grant applications for early childhood equity grant assistance. An eligible applicant may receive an early childhood equity grant once every two years. When conducting the equitable grant process, the department must:

(a) Solicit project applications from a racially and geographically diverse pool of eligible applicants statewide;

(b) Provide application materials in the five most commonly spoken languages in the state and broadly communicate using a variety of strategies to reach diverse communities;

(c) Require applicants to demonstrate their proposed uses of early childhood equity grant funds to incorporate either inclusive practices or culturally and linguistically supportive and relevant practices, or both, into early learning program design, delivery, education, training, and evaluation; and

(d) Provide technical assistance to any applicant who needs it. [2021 c 199 § 307.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.597 Play and learn groups—Resources and supports. Subject to the availability of amounts appropriated for this specific purpose, the department, in consultation with community-based programs, shall provide or contract to provide, or both, resources and supports for inclusive and culturally and linguistically relevant play and learn groups. Play and learn groups offer parents and other caregivers culturally responsive opportunities to support their children's early learning, build relationships that reduce isolation and encourage socialization, and promote kindergarten readiness. [2021 c 199 § 310.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.600 Professional development supports. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall provide professional development supports to aid eligible providers in reaching the professional education and training standards adopted by the department. Professional development supports may include:

(a) Department-required trainings for child care providers conducted by department-approved trainers;

(b) Trainings for license-exempt family, friend, and neighbor child care providers conducted by department-approved trainers;

(c) Early achievers scholarships;

(d) Community-based training pathways and systems developed under RCW 43.216.755;

(e) Supporting a nonprofit organization that provides relationship-based professional development support to family, friend, and neighbor caregivers, child care centers, and licensed family home providers, and their work to help providers start their businesses; and

(f) Other professional development activities such as updating training content, data collection and reporting, trainer recruitment, retention, program monitoring, and trainings delivered by department-approved trainers on topics such as small business management, antibias and antiracist training, providing care for children with developmental disabilities, social-emotional learning, implementing inclusionary practices in early learning environments, infant and toddler care, dual language program development, and providing trauma-informed care.

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(2) For the purposes of this section, "eligible provider" means: (a) An owner of a licensed or certified child care center, licensed or certified outdoor nature-based care, or licensed family home provider accepting state subsidy; (b) an employee of a licensed or certified child care center, licensed or certified outdoor nature-based care, or a licensed family home provider; (c) a contractor or provider of the early childhood education and assistance program or birth to three early childhood education and assistance program; or (d) an early achievers coach. [2021 c 199 § 311.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.602 Child care deserts grant program. (Expires June 30, 2026.) (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a grant program to expand child care in child care deserts. Grants must be used for one-time costs associated with the opening of a child care site, including program costs, for providers who are newly licensed or are in the process of becoming licensed.

(2) The department must use the child care industry insights dashboard from the child care industry assessment as a tool to identify areas in which additional investments are needed in order to expand existing child care capacity to meet family demand and reduce child care deserts.

(3) This section expires June 30, 2026. [2021 c 199 § 314.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

CHILD CARE AND WELFARE

43.216.650 Child fatality reviews. (1) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition.

(2)(a) The department shall conduct a child fatality review if a child fatality occurs in an early learning program described in RCW 43.216.500 through 43.216.550 or a licensed child care center, licensed outdoor nature-based child care, or a licensed child care home.

(b) The department shall convene a child fatality review committee and determine the membership of the review committee. The committee shall comprise individuals with appropriate expertise, including but not limited to experts from outside the department with knowledge of early learning licensing requirements and program standards, a law enforcement officer with investigative experience, a representative from a county or state health department, and a child advocate with expertise in child fatalities. The department shall invite one parent or guardian for membership on the child fatality review committee who has had a child die in a child care setting. The department shall ensure that the fatality review team is made up of individuals who had no previous involvement in the case.

(c) The department shall allow the parents or guardians whose child's death is being reviewed to testify before the child fatality review committee.

(d) The primary purpose of the fatality review shall be the development of recommendations to the department and

legislature regarding changes in licensing requirements, practice, or policy to prevent fatalities and strengthen safety and health protections for children.

(e) Upon conclusion of a child fatality review required pursuant to this section, the department shall, within one hundred eighty days following the fatality, issue a report on the results of the review, unless an extension has been granted by the governor. Reports must be distributed to the appropriate committees of the legislature, and the department shall create a public website where all child fatality review reports required under this section must be posted and maintained. A child fatality review report completed pursuant to this section is subject to public disclosure and must be posted on the public website, except that confidential information may be redacted by the department consistent with the requirements of RCW 13.50.100, 68.50.105, and 74.13.500 through 74.13.525, chapter 42.56 RCW, and other applicable state and federal laws.

(3) The department shall consult with the office of the family and children's ombuds to determine if a review should be conducted in the case of a near child fatality that occurs in an early learning program described in RCW 43.216.500 through 43.216.550 or licensed child care center, licensed outdoor nature-based child care, or licensed child care home.

(4) In any review of a child fatality or near fatality, the department and the fatality review team must have access to all records and files regarding the child or that are otherwise relevant to the review and that have been produced or retained by the early education and assistance program provider or licensed child care center, licensed outdoor nature-based child care, or licensed family home provider.

(5) The child fatality review committee shall coordinate with local law enforcement to ensure that the fatality or near fatality review does not interfere with any ongoing or potential criminal investigation.

(6)(a) A child fatality or near fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) A department employee responsible for conducting a child fatality or near fatality review, or member of a child fatality or near fatality review team, may not be examined in a civil or administrative proceeding regarding the following:

(i) The work of the child fatality or near fatality review team;

(ii) The incident under review;

(iii) The employee's or member's statements, deliberations, thoughts, analyses, or impressions relating to the work of the child fatality or near fatality review team or the incident under review; or

(iv) Statements, deliberations, thoughts, analyses, or impressions of any other member of the child fatality or near fatality review team, or any person who provided information to the child fatality or near fatality review team, relating to the work of the child fatality or near fatality review team or the incident under review.

(c) Documents prepared by or for a child fatality or near fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a child

fatality or near fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by a child fatality or near fatality review team. A person is not unavailable as a witness merely because the person has been interviewed by or has provided a statement for a child fatality or near fatality review, but if called as a witness, a person may not be examined regarding the person's interactions with the child fatality or near fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such review, and the answers that the person provided during such review. This section may not be construed as restricting a person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with a minor's death or near fatality reviewed by a child fatality or near fatality review team.

(7) The department shall develop and implement procedures to carry out the requirements of this section.

(8) Nothing in this section creates a duty for the office of the family and children's ombuds under RCW 43.06A.030 as related to children in the care of an early learning program described in RCW 43.216.500 through 43.216.550, a licensed child care center, a licensed outdoor nature-based child care, or a licensed child care home. [2021 c 304 § 21; 2015 c 199 § 1. Formerly RCW 43.215.490.]

Short title—2015 c 199: "This act may be known and cited as the Eve Uphold act." [2015 c 199 § 3.]

43.216.655 Data collection and program evaluation—Reports. (1) The education data center established in RCW 43.41.400 must collect longitudinal, student-level data on all children attending an early childhood education and assistance program. Upon completion of an electronic time and attendance record system, the education data center must collect longitudinal, student-level data on all children attending a working connections child care program. Data collected should capture at a minimum the following characteristics:

(a) Daily program attendance;

(b) Identification of classroom and teacher;

(c) Early achievers program quality level rating;

(d) Program hours;

(e) Program duration;

(f) Developmental results from the Washington kindergarten inventory of developing skills in RCW 28A.655.080; and

(g) To the extent data is available, the distinct ethnic categories within racial subgroups of children and providers that align with categories recognized by the education data center.

(2) The department shall provide early learning providers student-level data collected pursuant to this section that are specific to the early learning provider's program. Upon completion of an electronic time and attendance record system identified in subsection (1) of this section, the department shall provide child care providers student-level data that are specific to the child care provider's program.

(3) The department shall review available research and best practices literature on cultural competency in early learning settings. The department shall review the K-12 components for cultural competency developed by the professional educator standards board and identify components appropriate for early learning professional development.

(4)(a) The Washington state institute for public policy shall conduct a longitudinal analysis examining relationships between the early achievers program quality ratings levels and outcomes for children participating in subsidized early care and education programs.

(b) The institute shall submit the first report to the appropriate committees of the legislature and the early learning advisory council by December 31, 2019. The institute shall submit subsequent reports annually to the appropriate committees of the legislature and the early learning advisory council by December 31st, with the final report due December 31, 2022. The final report shall include a cost-benefit analysis.

(5) By December 31, 2021, and subject to the availability of amounts appropriated for this specific purpose, the Washington state institute for public policy shall update the outcome evaluation of the early childhood education and assistance program required by chapter 16, Laws of 2013 and report to the governor and the legislature on the outcomes of program participants. The evaluation must include the demographics of program participants including race, ethnicity, and socioeconomic status. The evaluation must examine short and long-term impacts on program participants, including high school graduation rates for up to two cohorts. When conducting the evaluation, the institute must consider, to the extent that data is available, the education levels and demographics, including race, ethnicity, and socioeconomic status, of early childhood education and assistance program staff and the effects of full-day programming and half-day programming on outcomes. [2019 c 369 § 7; 2015 3rd sp.s. c 7 § 13. Formerly RCW 43.215.492.]

Findings—Intent—2019 c 369: See note following RCW 43.216.091.

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.660 Child care services—Declaration of policy. It shall be the policy of the state of Washington to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in child rearing. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. The availability of quality, affordable child care is a concern for working parents, the costs of care are often beyond the resources of working parents, and child care facilities are not located conveniently to workplaces and neighborhoods. Parents are encouraged to participate fully in the effort to improve the quality of child care services.

(2) Promote a variety of culturally and developmentally appropriate child care settings and services of the highest possible quality in accordance with the basic principle of continuity of care. These settings shall include, but not be limited to, family day care homes, outdoor nature-based child care, centers, and schools.

(3) Promote the growth, development and safety of children by working with community groups including providers and parents to establish standards for quality service, training of child care providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services.

(4) Promote equal access to quality, affordable, socio-economically integrated child care for all children and families.

(5) Facilitate broad community and private sector involvement in the provision of quality child care services to foster economic development and assist industry through the department. [2021 c 304 § 22; 2017 3rd sp.s. c 6 § 212; 2006 c 265 § 202; 1989 c 381 § 2; 1988 c 213 § 1. Formerly RCW 43.215.495, 74.13.085.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Findings—1989 c 381: "The legislature finds that the increasing difficulty of balancing work life and family needs for parents in the workforce has made the availability of quality, affordable child care a critical concern for the state and its citizens. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the workforce to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state and its businesses.

The legislature further finds that making information on child care options available to businesses can help the market for child care adjust to the needs of businesses and working families. The legislature further finds that investments are necessary to promote partnerships between the public and private sectors, educational institutions, and local governments to increase the supply, affordability, and quality of child care in the state." [1989 c 381 § 1.]

Additional notes found at www.leg.wa.gov

43.216.665 Child care workers—Findings—Intent. The legislature finds that as of 2000, child care workers in the state earned an average hourly wage of eight dollars and twenty-two cents, only fifty-eight percent received medical insurance through employers, only sixty-six percent received paid sick leave, and only seventy-three percent received paid vacation. The legislature further finds that low wages for child care workers create a barrier for individuals entering the profession, result in child care workers leaving the profession in order to earn a living wage in another profession, and make it difficult for child care workers to afford professional education and training. As a result, the availability of quality child care in the state suffers.

The legislature intends to increase wages to child care workers through establishing a child care career and wage ladder that provides increased wages for child care workers based on their work experience, level of responsibility, and education. To the extent practicable within available funds, this child care career and wage ladder shall mirror the successful child care career and wage ladder pilot project operated by the state between 2000 and 2003. While it is the intent of the legislature to establish the vision of a statewide child care career and wage ladder that will enhance employment quality and stability for child care workers, the legislature also recognizes that funding allocations will determine the extent of statewide implementation of a child care career and wage ladder. [2005 c 507 § 1. Formerly RCW 43.215.500, 74.13.097.]

43.216.670 Child care provider rules review. In conjunction with child care providers and other early learning leaders, the department shall review and revise child care provider rules in order to emphasize the need for mutual respect among parents, providers, and state staff who enforce rules. Revised rules shall clearly focus on keeping children safe and improving early learning outcomes for children. The department shall develop a plan by July 2007 that outlines the process and timelines to complete the rules review. Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects. [2007 c 394 § 7. Formerly RCW 43.215.502.]

Finding—Declaration—Captions not law—2007 c 394: See notes following RCW 43.216.010.

43.216.675 Child care workers—Career and wage ladder. (1) Subject to the availability of funds appropriated for this specific purpose, the department shall establish a child care career and wage ladder in licensed child care centers that meet the following criteria: (a) At least ten percent of child care slots are dedicated to children whose care is subsidized by the state or any political subdivision thereof or any local government; (b) the center agrees to adopt the child care career and wage ladder, which, at a minimum, shall be at the same pay schedule as existed in the previous child care career and wage ladder pilot project; and (c) the center meets further program standards as established by rule pursuant to *section 4, chapter 507, Laws of 2005.

The child care career and wage ladder shall include wage increments for levels of education, years of relevant experience, levels of work responsibility, relevant early childhood education credits, and relevant requirements in the state training and registry system.

(2) The department shall establish procedures for the allocation of funds to implement the child care career and wage ladder among child care centers meeting the criteria identified in subsection (1) of this section. In developing these procedures, the department shall:

(a) Review past efforts or administration of the child care career and wage ladder pilot project in order to take advantage of any findings, recommendations, or administrative practices that contributed to that pilot project's success;

(b) Consult with stakeholders, including organizations representing child care teachers and providers, in developing an allocation formula that incorporates consideration of geographic and demographic distribution of child care centers adopting the child care career and wage ladder; and

(c) Develop a system for prioritizing child care centers interested in adopting the child care career and wage ladder that is based on the criteria identified in subsection (1) of this section.

(3) Notwithstanding the requirements of subsection (2) of this section, child care centers meeting the criteria in subsection (1) of this section located in urban areas of the department of social and health services region one shall receive a minimum of fifteen percent of the funds allocated through the child care career and wage ladder, and of these centers, child care centers meeting the criteria in subsection (1) of this section participating in the Spokane tiered reimbursement pilot project shall have first priority for child care career and wage

ladder funding. [2006 c 265 § 205; 2005 c 507 § 2. Formerly RCW 43.215.505, 74.13.098.]

***Reviser's note:** Section 4 of this act was vetoed.

43.216.680 Child care workers—Career and wage ladder—Wage increases. Child care centers adopting the child care career and wage ladder established pursuant to *RCW 43.215.505 shall increase wages for child care workers who have earned a high school diploma or high school equivalency certificate as provided in RCW 28B.50.536, gain additional years of experience, or accept increasing levels of responsibility in providing child care, in accordance with the child care career and wage ladder. The adoption of a child care career and wage ladder shall not prohibit the provision of wage increases based upon merit. The department shall pay wage increments for child care workers employed by child care centers adopting the child care career and wage ladder established pursuant to *RCW 43.215.505 who earn early childhood education credits or meet relevant requirements in the state training and registry system, in accordance with the child care career and wage ladder. [2013 c 39 § 20; 2006 c 265 § 206; 2005 c 507 § 3. Formerly RCW 43.215.510, 74.13.099.]

***Reviser's note:** RCW 43.215.505 was recodified as RCW 43.216.675 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

43.216.685 Child care—Toll-free information number. (1) The department shall establish and maintain a toll-free telephone number, and an interactive web-based system through which persons may obtain information regarding child day care centers, outdoor nature-based child care providers, and family day care providers. This number shall be available twenty-four hours a day for persons to request information. The department shall respond to recorded messages left at the number within two business days. The number shall be published in reasonably available printed and electronic media. The number shall be easily identifiable as a number through which persons may obtain information regarding child day care centers and family day care providers as set forth in this section.

(2) Through the toll-free telephone line established by this section, the department shall provide information to callers about: (a) Whether a day care provider is licensed; (b) whether a day care provider's license is current; (c) the general nature of any enforcement against the providers; (d) how to report suspected or observed noncompliance with licensing requirements; (e) how to report alleged abuse or neglect in a day care; (f) how to report health, safety, and welfare concerns in a day care; (g) how to receive follow-up assistance, including information on the office of the family and children's ombuds; and (h) how to receive referral information on other agencies or entities that may be of further assistance to the caller.

(3) The department shall print the toll-free number established by this section on the face of new licenses issued to child day care centers, outdoor nature-based child care providers, and family day care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW. [2021 c 304 § 23; 2013 c 23

§ 99; 2006 c 209 § 10; 2005 c 473 § 3. Formerly RCW 43.215.520, 74.15.310.]

Purpose—2005 c 473: See note following RCW 74.15.300.

43.216.687 Child care—Required postings—Disclosure of complaints. (1) Every child day care center, outdoor nature-based child care provider, and family day care provider shall prominently post the following items, clearly visible to parents and staff:

(a) The license issued under this chapter;

(b) The department's toll-free telephone number established by RCW 43.216.685;

(c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; and

(e) Any other information required by the department.

(2) The department shall disclose the receipt, general nature, and resolution or current status of all complaints on record with the department after July 24, 2005, against a child day care center or family day care provider that result in an enforcement action. Information may be posted:

(a) On a website; or

(b) In a physical location that is easily accessed by parents and potential employers.

(3) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW. [2021 c 304 § 24; 2007 c 415 § 6; 2006 c 209 § 11; 2005 c 473 § 4. Formerly RCW 43.215.525, 74.15.320.]

Purpose—2005 c 473: See note following RCW 74.15.300.

43.216.689 Child care—Public access to reports and enforcement action notices. (1) Every child day care center, outdoor nature-based child care provider, and family day care provider shall have readily available for review by the department, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the department for the past three years. This subsection only applies to reports and notices received on or after July 24, 2005.

(2) The department shall make available to the public during business hours all inspection reports and notices of enforcement actions involving child day care centers, outdoor nature-based child care providers, and family day care providers. The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

(3) The department may make available on a publicly accessible website all inspection reports and notices of licensing actions, including the corrective measures required or taken, involving child day care centers, outdoor nature-based child care providers, and family day care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW. [2021 c 304 § 25; 2007 c 415

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§ 7; 2006 c 209 § 12; 2005 c 473 § 5. Formerly RCW 43.215.530, 74.15.330.]

Purpose—2005 c 473: See note following RCW 74.15.300.

43.216.690 Child day care centers and outdoor nature-based child care providers—Immunization. (1) Except as provided in subsection (2) of this section, child day care centers and outdoor nature-based child care providers licensed under this chapter may not allow on the premises an employee or volunteer, who has not provided the child day care center or outdoor nature-based child care provider with:

(a) Immunization records indicating that he or she has received the measles, mumps, and rubella vaccine; or

(b) Proof of immunity from measles through documentation of laboratory evidence of antibody titer or a health care provider's attestation of the person's history of measles sufficient to provide immunity against measles.

(2)(a) The child day care center and outdoor nature-based child care provider may allow a person to be employed or volunteer on the premises for up to thirty calendar days if he or she signs a written attestation that he or she has received the measles, mumps, and rubella vaccine or is immune from measles, but requires additional time to obtain and provide the records required in subsection (1)(a) or (b) of this section.

(b) The child day care center and outdoor nature-based child care provider may allow a person to be employed or volunteer on the premises if the person provides the child day care center or outdoor nature-based child care provider with a written certification signed by a health care practitioner, as defined in RCW 28A.210.090, that the measles, mumps, and rubella vaccine is, in the practitioner's judgment, not advisable for the person. This subsection (2)(b) does not apply if it is determined that the measles, mumps, and rubella vaccine is no longer contraindicated.

(3) The child day care center and outdoor nature-based child care provider shall maintain the documents required in subsection (1) or (2) of this section in the person's personnel record maintained by the child day care center.

(4) For purposes of this section, "volunteer" means a nonemployee who provides care and supervision to children at the child day care center or outdoor nature-based child care program. [2021 c 304 § 26; 2019 c 362 § 3.]

43.216.692 Family home providers—Capacity flexibility. The department may waive the limit, as established in RCW 43.216.010(1)(c), that restricts family home providers from serving not more than 12 children. The department must establish conditions for such waivers by rule and must assess, at a minimum, the provider's available square footage and staffing capabilities prior to issuing any waiver of the limit of 12 children. [2021 c 199 § 313.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.695 County regulation of family day-care centers—Twelve-month pilot projects. (1) Notwithstanding RCW 74.15.030, counties with a population of three thousand or less may adopt and enforce ordinances and regulations as provided in this section for family day-care providers as defined in *RCW 74.15.020(1)(f) as a twelve-month pilot project. Before a county may regulate family day-care pro-

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viders in accordance with this section, it shall adopt ordinances and regulations that address, at a minimum, the following: (a) The size, safety, cleanliness, and general adequacy of the premises; (b) the plan of operation; (c) the character, suitability, and competence of a family day-care provider and other persons associated with a family day-care provider directly responsible for the care of children served; (d) the number of qualified persons required to render care; (e) the provision of necessary care, including food, clothing, supervision, and discipline; (f) the physical, mental, and social well-being of children served; (g) educational and recreational opportunities for children served; and (h) the maintenance of records pertaining to children served.

(2) The county shall notify the department of social and health services in writing sixty days prior to adoption of the family day-care regulations required pursuant to this section. The transfer of jurisdiction shall occur when the county has notified the department in writing of the effective date of the regulations, and shall be limited to a period of twelve months from the effective date of the regulations. Regulation by counties of family day-care providers as provided in this section shall be administered and enforced by those counties. The department shall not regulate these activities nor shall the department bear any civil liability under chapter 74.15 RCW for the twelve-month pilot period. Upon request, the department shall provide technical assistance to any county that is in the process of adopting the regulations required by this section, and after the regulations become effective.

(3) Any county regulating family day-care providers pursuant to this section shall report to the governor and the appropriate committees of the legislature concerning the outcome of the pilot project upon expiration of the twelve-month pilot period. The report shall include the ordinances and regulations adopted pursuant to subsection (1) of this section and a description of how those ordinances and regulations address the specific areas of regulation identified in subsection (1) of this section. [2005 c 509 § 1. Formerly RCW 43.215.532, 74.15.031.]

***Reviser's note:** Chapter 265, Laws of 2006, deleted the definition of "family day-care provider" in RCW 74.15.020 and created it in RCW 43.215.010. RCW 43.215.010 was recodified as RCW 43.216.010 pursuant to 2017 3rd sp.s. c 6 § 821, effective July 1, 2018.

Additional notes found at www.leg.wa.gov

43.216.700 Day care insurance. (1) Every licensed child day care center and outdoor nature-based child care provider shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day care center and outdoor nature-based child care provider shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day care center or outdoor nature-based child care location, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(b) Liability limits under this subsection shall be the same as set forth in RCW 48.88.050.

(c) The department may take action as provided in RCW 43.216.325 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day care centers and outdoor nature-based child care providers holding licenses, initial licenses, and probationary licenses under this chapter.

(e) A child day care center holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(2)(a) Every licensed family day care provider shall, at the time of licensure or renewal either:

(i) Provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or other applicable insurance; or

(ii) Provide written notice of their insurance status on a standard form developed by the department to parents with a child enrolled in family day care and keep a copy of the notice to each parent on file. Family day care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b) or (c) of this subsection.

(b) Any licensed family day care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day care home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(c) Liability limits under (a)(i) of this subsection shall be the same as set forth in RCW 48.88.050.

(d) The department may take action as provided in RCW 43.216.325 if the licensee fails to comply with the requirements of this subsection.

(e) A family day care provider holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation. [2021 c 304 § 27; 2007 c 415 § 10; 2005 c 473 § 7. Formerly RCW 43.215.535, 74.15.340.]

Purpose—2005 c 473: See note following RCW 74.15.300.

43.216.705 Child care providers—Tiered-reimbursement system—Pilot sites. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall implement the tiered-reimbursement system developed pursuant to section 6, chapter 490, Laws of 2005. Implementation of the tiered-reimbursement system shall initially consist of two pilot sites in different geographic regions of the state with demonstrated public-private partnerships, with statewide implementation to follow.

(2) In implementing the tiered-reimbursement system, consideration shall be given to child care providers who provide staff wage progression.

(3) The department shall begin implementation of the two pilot sites by March 30, 2006. [2006 c 265 § 207; 2005 c 490 § 7. Formerly RCW 43.215.540, 74.15.350.]

Additional notes found at www.leg.wa.gov

43.216.710 Child care services. The department shall:

(1) Work in conjunction with the statewide child care resource and referral network as well as local governments, nonprofit organizations, businesses, and community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs assessments, resource development, provider training, technical assistance, and parent information and training;

(2) Actively seek public and private money for distribution as grants to the statewide child care resource and referral network and to existing or potential local child care resource and referral organizations;

(3) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs, including training under RCW 74.25.040;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

(e) Advocate for increased public and private sector resources devoted to child care;

(f) Provide technical assistance to employers regarding employee child care services; and

(g) Serve recipients of temporary assistance for needy families and working parents with household incomes at or below 100 percent of the state median income;

(4) Provide staff support and technical assistance to the statewide child care resource and referral network and local child care resource and referral organizations;

(5) Maintain a statewide child care licensing data bank and work with department licensors to provide information to local child care resource and referral organizations about licensed or certified child care providers in the state;

(6) Through the statewide child care resource and referral network and local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

(7) Coordinate with the statewide child care resource and referral network and local child care resource and referral organizations for the provision of training and technical assistance to child care providers;

(8) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services;

(9) Subject to the availability of amounts appropriated for this specific purpose, increase the base rate for all child care providers by ten percent;

(2022 Ed.)

(10) Subject to the availability of amounts appropriated for this specific purpose, provide tiered subsidy rate enhancements to child care providers if the provider meets the following requirements:

(a) The provider enrolls in quality rating and improvement system levels 2, 3, 4, or 5;

(b) The provider is actively participating in the early achievers program;

(c) The provider continues to advance towards level 5 of the early achievers program; and

(d) The provider must complete level 2 within thirty months or the reimbursement rate returns the level 1 rate; and

(11) Require exempt providers to participate in continuing education, if adequate funding is available. [2021 c 199 § 506; 2017 3rd sp.s. c 6 § 213; 2013 c 323 § 8; 2006 c 265 § 204; 2005 c 490 § 10; 1997 c 58 § 404; 1993 c 453 § 2; 1991 sp.s. c 16 § 924; 1989 c 381 § 5. Formerly RCW 43.215.545, 74.13.0903.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Finding—1997 c 58: "The legislature finds that informed choice is consistent with individual responsibility and that parents should be given a range of options for available child care while participating in the program." [1997 c 58 § 401.]

Finding—1993 c 453: "The legislature finds that building a system of quality, affordable child care requires coordinated efforts toward constructing partnerships at state and community levels. Through the office of child care policy, the department of social and health services is responsible for facilitating the coordination of child care efforts and establishing working partnerships among the affected entities within the public and private sectors. Through these collaborative efforts, the office of child care policy encouraged the coalition of locally based child care resource and referral agencies into a statewide network. The statewide network, in existence since 1989, supports the development and operation of community-based resource and referral programs, improves the quality and quantity of child care available in Washington by fostering statewide strategies, and generates then nurtures effective public-private partnerships. The statewide network provides important training, standards of service, and general technical assistance to its locally based child care resource and referral programs. The locally based programs enrich the availability, affordability, and quality of child care in their communities." [1993 c 453 § 1.]

Findings—Severability—1989 c 381: See notes following RCW 43.216.660.

Additional notes found at www.leg.wa.gov

43.216.715 Child care partnership employer liaison.

An employer liaison position is established in the department to be colocated with the department of commerce. The employer liaison shall, within appropriated funds:

(1) Staff and assist the child care partnership in the implementation of its duties;

(2) Provide technical assistance to employers regarding child care services, working with and through local resource and referral organizations whenever possible. Such technical assistance shall include at a minimum:

(a) Assessing the child care needs of employees and prospective employees;

(b) Reviewing options available to employers interested in increasing access to child care for their employees;

(c) Developing techniques to permit small businesses to increase access to child care for their employees;

(d) Reviewing methods of evaluating the impact of child care activities on employers; and

(e) Preparing, collecting, and distributing current information for employers on options for increasing involvement in child care; and

(3) Provide assistance to local child care resource and referral organizations to increase their capacity to provide quality technical assistance to employers in their community. [2017 3rd sp.s. c 6 § 214; 2006 c 265 § 203; 1989 c 381 § 6. Formerly RCW 43.215.550, 74.13.0902.]

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

Findings—Severability—1989 c 381: See notes following RCW 43.216.660.

Additional notes found at www.leg.wa.gov

43.216.720 Child care expansion grant fund. (1) The legislature recognizes that a severe shortage of child care exists to the detriment of all families and employers throughout the state. Many workers are unable to enter or remain in the workforce due to a shortage of child care resources. The high costs of starting a child care business create a barrier to the creation of new slots, especially for children with special needs.

(2) A child care expansion grant fund is created in the custody of the secretary of the department of social and health services. Grants shall be awarded on a one-time only basis to persons, organizations, or schools needing assistance to start a child care center or mini-center as defined by the department by rule, or to existing licensed child care providers, including family home providers, for the purpose of making capital improvements in order to accommodate children with disabilities, sick children, or infant care, or children needing nighttime care. No grant may exceed ten thousand dollars. Start-up costs shall not include operational costs after the first three months of business.

(3) Child care expansion grants shall be awarded on the basis of need for the proposed services in the community, within appropriated funds.

(4) The department shall adopt rules under chapter 34.05 RCW setting forth criteria, application procedures, and methods to assure compliance with the purposes described in this section. [2020 c 274 § 26; 1988 c 213 § 3. Formerly RCW 43.215.555, 74.13.095.]

Additional notes found at www.leg.wa.gov

43.216.725 Subsidized child care report and assessment. The department and the department of social and health services, in consultation with interested individuals and organizations, shall jointly:

(1) Identify different options to track subsidized child care attendance, including methods using a land line or cellular telephone, a computer, a point of sale system, or some combination of these methods and report their recommended method to the legislature no later than December 31, 2011. Each department's recommendations must include implementation issues to be addressed and a proposed implementation timeline, and should assume a January 2013 implementation date for the attendance tracking system. The legislature shall review the recommendations and authorize implemen-

tation. The method that is chosen must interface smoothly with the current and future payment systems for subsidized child care payments.

(2) Conduct an assessment of the current subsidized child care eligibility determination system and develop recommendations to improve the accuracy, efficiency, and responsiveness of the system, including consideration of the most appropriate entity or entities to make eligibility determinations. The results of the assessment shall be reported to the legislature no later than December 31, 2011. [2011 1st sp.s. c 42 § 12. Formerly RCW 43.215.560.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

43.216.730 Child care subsidy fraud—Referral—Collection of overpayments. (1) The department must refer all suspected incidents of child care subsidy fraud to the department of social and health services office of fraud and accountability for appropriate investigation and action.

(2) For the purposes of this section, "fraud" has the definition in RCW 74.04.004.

(3) This section does not limit or preclude the department or the department of social and health services from establishing and collecting overpayments consistent with federal regulation or seek other remedies that may be legally available, including but not limited to criminal investigation or prosecution. [2013 2nd sp.s. c 29 § 2. Formerly RCW 43.215.562.]

Finding—Intent—2013 2nd sp.s. c 29: "The legislature finds that child care providers positively contribute to local communities by offering important services that support the well-being of children and their families. The legislature further recognizes that most child care providers make every effort to ensure that subsidy payments received are correct and align with agency rules. When a child care provider is found to have fraudulently accepted subsidy payments, however, it is the legislature's intent to prohibit such a provider from receiving future child care subsidy payments." [2013 2nd sp.s. c 29 § 1.]

43.216.735 Placement of children ages sixty months through six years. For children ages sixty months through six years, the child's school enrollment status may not be used as a reason to require the child be placed within a specific mixed-age group. Nothing in this section changes or requires the department to change the staff-to-child ratio requirements for mixed-age groups that include children who are ages thirty months through six years. [2016 c 169 § 2. Formerly RCW 43.215.564.]

Finding—Intent—2016 c 169: "(1) The legislature recognizes that the high cost of quality child care places a heavy burden on Washington's poorest families. The legislature further acknowledges the administrative burden unnecessary regulations place on child care providers and the families they serve. The legislature finds that under current rule, child care providers may not serve five year olds attending school in the same group as five year olds not attending school.

(2) The legislature intends to allow child care centers to serve kindergartners in a mixed group or classroom without having to go through a waiver process. The legislature further intends to streamline the delivery of services to children while continuing to protect their safety and well-being." [2016 c 169 § 1.]

43.216.742 Outdoor nature-based child care program. (1) The department shall establish a licensed outdoor nature-based child care program.

(2) The department shall adopt rules to implement the outdoor nature-based child care program and may waive or adapt licensing requirements when necessary to allow for the operation of outdoor classrooms.

(3) The department shall apply the early achievers program to the outdoor nature-based child care program to assess quality in outdoor learning environments and may waive or adapt early achievers requirements when necessary to allow for the operation of outdoor classrooms.

(4) A child care or early learning program operated by a federally recognized tribe may participate in the outdoor nature-based child care program through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty.

(5) Subject to the availability of funds, the department may convene an advisory group of outdoor, nature-based early learning practitioners to inform and support implementation of the outdoor nature-based child care program. [2021 c 304 § 28.]

43.216.745 Child care consultation program—Creation, operation, and duties. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a child care consultation program linking child care providers with evidence-based, trauma-informed, and best practice resources regarding caring for infants and young children who present behavioral concerns or symptoms of trauma. The department may contract with an entity with expertise in child development and early learning programs in order to operate the child care consultation program.

(2) In establishing and operating the program, the department or contracted entity shall: (a) Assist child care providers in recognizing the signs and symptoms of trauma in children; (b) provide support and guidance to child care staff; (c) consult and coordinate with parents, other caregivers, and experts or practitioners involved with the care and well-being of the young children; and (d) provide referrals for children who need additional services. [2017 c 202 § 5. Formerly RCW 43.215.570.]

Findings—Intent—2017 c 202: See note following RCW 74.09.495.

43.216.749 Child care subsidy rates—Use of cost model. (1) It is the intent of the legislature to systemically increase child care subsidy rates over time until rates are equal to the full cost of providing high quality child care.

(2) Beginning July 1, 2021, child care subsidy base rates must achieve the 85th percentile of market for licensed or certified child care providers. The state and the exclusive representative for family child care providers must enter into bargaining over the implementation of the subsidy rate increase under this subsection.

(3)(a) The department shall build upon the work of the child care collaborative task force to develop and implement a child care cost estimate model and use the completed child care cost model to recommend subsidy rates at levels that are sufficient to compensate licensed or certified child care providers for the full costs of providing high quality child care. The department shall consider:

(i) Adjusting rates to reflect cost of living such as area median income, cost of living by zip code, and grouping by categories such as rural, suburban, or urban; and

(ii) Incorporating the rate model for nonstandard child care hours developed under section 306, chapter 199, Laws of 2021.

(b) The department shall build upon the work of the child care collaborative task force to evaluate options to support access to affordable health care insurance coverage for licensed or certified child care providers.

(4) This section does not interfere with, impede, or in any way diminish the right of family child care providers to bargain collectively with the state through the exclusive bargaining representatives as provided for under RCW 41.56.028. [2021 c 199 § 301; 2019 c 368 § 7.]

Effective date—2021 c 199 §§ 201, 202, 301, 309, and 504: See note following RCW 43.216.1368.

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Findings—Intent—2019 c 368: "(1) The legislature finds that child care is a sector that is critical to the vitality and economic security of our state and communities and families, and that families in Washington face significant barriers to accessing and affording high quality child care. The legislature finds that Washington's committed caregivers and state investments and advancements in our quality rating and improvement system ensure that quality, culturally relevant child care supports children's healthy development and prepares them for success in school and in life. The legislature recognizes that provider diversity and cultural relevance are fundamental components of quality, and that parent choice is a priority throughout the state's early learning system.

(2) The legislature finds that the cost of quality child care is unaffordable for many families and state support is needed to ensure that all children and families in Washington can access safe, enriching child care.

(3) The legislature recognizes that expanding access to quality child care requires preparing the market of child care providers to meet existing and expanded demand. The legislature finds that the market of child care providers is shrinking, that child care deserts are expanding, and that fewer providers are offering services to working connections child care subsidy recipients. The legislature additionally finds that child care providers are unable to recruit and retain a qualified workforce; that wages in the industry remain among the lowest of all professions, at or near minimum wage; and that the relationship between a child and a qualified caregiver is of paramount importance to parents and, according to a rapidly accumulating body of brain science, is foundational to supporting healthy development.

(4) Further, while the system awaits systemic change, the legislature finds that steps must be taken to begin to preserve and expand access to child care for child care subsidy recipients, stabilize the child care industry, and reduce turnover in the workforce.

(5) Therefore, the legislature intends to promote high quality child care from diverse providers that is accessible and affordable to all families of Washington's children ages birth to twelve." [2019 c 368 § 1.]

Short title—2019 c 368: "This act may be known and cited as the Washington child care access now act." [2019 c 368 § 9.]

43.216.750 Child welfare workers—Department duties—Technical work group to develop workload model—Annual report to legislature. (1) The department shall provide child welfare workers and those supervising child welfare workers with access to:

(a) A critical incident protocol that establishes a process for appropriately responding to traumatic or high stress incidents in a manner that provides employees with proper mental health and stress management support, guidance, and education; and

(b) Peer counseling from someone trained in providing peer counseling and support.

(2) The department shall systematically collect workforce data regarding child welfare workers including staff turnover, workload distribution, exit interviews, and regular staff surveys to assess organizational culture and psychological safety.

(3) The department shall make a concerted effort to increase efficiency through the reduction of paperwork.

(4) The department shall develop a scientifically based method for measuring the direct service time of child welfare workers and contracted resources.

(5) The department shall convene a technical work group to develop a workload model including standardized ratios for supervisors, clerical, and other child welfare worker support staff and child welfare worker caseload ratios by case type.

(a) The technical work group must include:

(i) Two child welfare worker representatives, one from west of the crest of the Cascade mountain range, and one from east of the crest of the Cascade mountain range;

(ii) Fiscal staff from the department;

(iii) Human resources staff from the department; and

(iv) A representative from the office of financial management.

(b) The department shall provide a report to the relevant committees of the legislature in compliance with RCW 43.01.036 by December 1, 2019, that includes a description of the workload model recommended by the technical work group and the steps the department is taking to implement this model.

(c) The technical work group established in this section shall continue to meet and provide an annual report to the relevant committees of the legislature in compliance with RCW 43.01.036 by December 1st of each year regarding any recommended modifications to the workload model and steps the department is taking to implement those changes.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Child welfare worker" means an employee of the department whose job includes supporting or providing child welfare services as defined in RCW 74.13.020 including those providing family assessment response services as defined in RCW 26.44.020 or child protective services as defined in RCW 26.44.020.

(b) "Critical incident" means an incident that is unusual and involves a perceived or actual threat of harm to an individual which includes but is not limited to child fatalities or near fatalities. [2019 c 470 § 28.]

43.216.755 Child care providers—Community-based training pathway. (1) By July 1, 2021, the department shall implement a noncredit-bearing, community-based training pathway for licensed child care providers to meet professional education requirements associated with child care licensure. The community-based training pathway must be offered as an alternative to existing credit-bearing pathways available to providers.

(2) The department shall consult with the following stakeholders in the development and implementation of the community-based training pathway: The statewide child care resource and referral network, a community-based training organization that provides training to licensed family day

care providers, a statewide organization that represents the interests of family day care providers, a statewide organization that represents the interests of licensed child day care centers, an organization that represents the interests of refugee and immigrant communities, a bilingual child care provider whose first language is not English, an organization that advocates for early learning, an organization representing private and independent schools, and the state board for community and technical colleges.

(3) The community-based training pathway must:

(a) Align with adopted core competencies for early learning professionals;

(b) Be made available to providers in multiple languages;

(c) Include culturally relevant practices; and

(d) Be made available at low cost to providers and at prices comparable to the cost of similar community-based trainings, not to exceed two hundred and fifty dollars per person; and

(e) Be accessible to providers in rural and urban settings.

(4) The department shall allow licensed child care providers until at least August 1, 2026, to:

(a) Comply with child care licensing rules that require a provider to hold an early childhood education initial certificate or an early childhood education short certificate; or

(b) Complete community-based trainings.

(5) For the purposes of this section, "demonstrated competence" means an individual has shown that he or she has the skills to complete the required work independently. [2020 c 342 § 2.]

Findings—Intent—2020 c 342: "The legislature finds that a nurturing and loving relationship between an early learning provider and a child the provider cares for is an essential component of early learning and has a strong influence on that child's healthy development. Further, the legislature finds that successfully operating a child care center or licensed family home is becoming more financially challenging as the state's regulatory framework for child care and early learning has grown more comprehensive. The legislature recognizes the value of demonstrated competence that comes with a provider's experience in delivering quality child care. Therefore, in response to our state's urgent child care crisis, the legislature intends to provide relief to early learning providers by building the early learning workforce to meet the needs of working families across our state. The legislature further intends for providers to have a range of options to meet education requirements, including a noncredit-bearing[,] community-based training pathway." [2020 c 342 § 1.]

43.216.760 Child care and early learning providers—Firearms, dangerous weapons. (1) Every child day care center and early childhood education and assistance program provider is subject to RCW 9.41.282.

(2)(a) A family day care provider must store any firearm, ammunition, or other dangerous weapon as described in RCW 9.41.250 in a secure area when children for whom the family day care provider is licensed to provide care are present on the premises.

(b) The secure area must be inaccessible to children and must consist of a locked gun safe or a locked room. If stored in a locked room, each firearm must be stored unloaded and with a trigger lock or other disabling feature.

(3) The department may deny, suspend, revoke, modify or not renew the license of a child care provider in violation of this section. [2020 c 189 § 2.]

43.216.762 Child care and early learning providers—Firearms, dangerous weapons—Rules. The department must adopt rules to implement RCW 9.41.282 and 43.216.760. [2020 c 189 § 3.]

43.216.770 Fair start for kids account. (1) The fair start for kids account is created in the state treasury. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only for child care and early learning purposes. [2021 c 199 § 101.]

Short title—2021 c 199: "This act may be known and cited as the fair start for kids act." [2021 c 199 § 1.]

Findings—Intent—2021 c 199: "(1) The legislature finds that high quality child care and early learning is critical to a child's success in school and life. The legislature recognizes that COVID-19 has devastated the existing child care industry, making it unduly burdensome for families to find care. The legislature recognizes that without immediate action to support child care providers, and without expanded access to affordable child care, especially infant and school-age care, parents will not be able to return to work while children lose valuable learning opportunities. In order to bolster a full economic recovery, the legislature finds that every child deserves a fair start.

(2) The legislature finds that access to affordable child care increases economic growth and labor force participation. The legislature further finds that an affordable, accessible system of high quality child care is necessary to the health of Washington's economy because employers benefit when parents have safe, stable, and appropriate care for their children. The legislature recognizes that too many working parents are forced to reduce their hours, decline promotional opportunities, or leave the workforce completely due to a lack of affordable and appropriate child care. The legislature finds that a report commissioned by the department of commerce in 2019 found that working parents in Washington forego \$14,000,000,000 each year directly due to child care scarcity. The legislature recognizes that this disproportionately impacts women in the workforce and that in September 2020 alone, 78,000 men left the workforce, compared to 600,000 women.

(3) The legislature recognizes that quality child care can be a stabilizing factor for children experiencing homelessness, and is a proven protective factor against the impacts of trauma they may experience. Access to child care is also a necessary support for families with young children in resolving homelessness and securing employment.

(4) The legislature finds that the scarcity of child care, exacerbated by COVID-19, most significantly impacts families furthest from opportunity. The legislature recognizes that there are additional barriers to accessing this foundational support for immigrant communities and families whose first language is not English, families who have children with disabilities, rural communities, or other child care deserts. The legislature recognizes that high quality, inclusive child care and early learning programs have been shown to reduce the opportunity gap for low-income children and black, indigenous, and children of color while consistently improving outcomes for all children both inside and outside of the classroom.

(5) The legislature finds that without access to comprehensive, high quality prenatal to five services, children often enter kindergarten without the social-emotional, physical, cognitive, and language skills they need to be successful and fall behind their peers, facing compounding developmental challenges throughout their K-12 education. The legislature finds that cascading impacts of inaccessible child care and early learning programs create systemic barriers for children and their families that result in higher special education needs, greater likelihood of needing to repeat grades, increased child welfare and juvenile justice involvement, reduced high school graduation rates, limited postsecondary education attainment, and greater barriers to employment in adulthood.

(6) The legislature finds the vast majority of child care providers are small businesses and nonprofit organizations. In addition to adhering to federal, state, and local regulations to ensure healthy and safe environments for children, the legislature recognizes that child care providers must ensure their employees are adequately compensated and supported. However, the legislature acknowledges that the reduced staffing ratios for health and safety, additional cost of personal protective equipment and extra cleaning supplies, increased use of substitutes needed during COVID-19-related absences, and increased technology demands during school closures from the pandemic are further straining the viability of the child care business model in Washington state.

(7) The legislature finds that the health and stability of the early learning workforce is pivotal to any expansion of child care in Washington state. The legislature recognizes that the child care workforce, predominantly comprised of women of color, is structurally afflicted by low wages, limited or no health care, and a severe lack of retirement benefits. The legislature further recognizes that the threat of COVID-19 compounds these underlying issues, forcing providers to navigate increased stress, anxiety, and behavioral issues all while risking their lives to care for children. The legislature recognizes that families, friends, and neighbors who provide care are a critical component of the child care system. The legislature finds that child care workers are essential and deserve to be compensated and benefited accordingly.

(8) Therefore, the legislature resolves to respond to the COVID-19 crisis by first stabilizing the child care industry and then expanding access to a comprehensive continuum of high quality early childhood development programs, including infant and school-age child care, preschool, parent and family supports, and prenatal to three services. The legislature recognizes this continuum as critical to meeting different families' needs and offering every child in Washington access to a fair start.

(9) The legislature recognizes that the federal government has provided substantial additional funding through the coronavirus response and relief supplemental appropriations act, P.L. 116-260, division M., and the American rescue plan act of 2021. The purpose of the additional federal funding is to ensure access to affordable child care and stabilize and support child care providers affected by COVID-19. Therefore, it is the intent of the legislature to use the additional federal funding to supplement state funding in order to accelerate these investments.

(10) The legislature recognizes the strengths that multilingual, diverse early learning providers and caregivers contribute to early learning across the state. Therefore, the legislature intends to expand language access services to create an inclusive early learning system that specifically supports underserved providers.

(11) The legislature intends to expand eligibility for existing child care and preschool programs to increase access. The legislature recognizes that expansion must be accompanied by an investment to make child care more affordable. Therefore, the legislature intends to eliminate copayments for low-income families and limit copayments for any family on subsidy to no more than seven percent of their income.

(12) The legislature further intends to stabilize, support, and grow the diverse early learning workforce by funding living wages and affordable health benefits while providing training, infant and early childhood mental health consultation, shared business services, and a variety of other supports that recognize the critical role that early learning providers serve for all Washington children.

(13) The legislature intends to accelerate Washington's economic recovery from the devastating impacts of COVID-19 by dramatically expanding access to affordable, high quality child care and preschool, in order to get parents back to work and provide every child with a fair start." [2021 c 199 § 2.]

Conflict with federal requirements—2021 c 199: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2021 c 199 § 603.]

43.216.772 Fair start for kids account—Spending goals and strategies. (1) The spending goals and strategies for the fair start for kids account created under RCW 43.216.770 include, but are not limited to:

(a) Increasing child care subsidy rates, with the goal of moving toward the full cost of providing high quality child care;

(b) Expanding health care coverage through state sponsorship of child care workers on the Washington health benefit exchange and providing consumer assistance through navigators, as well as any other expansions of access to affordable health care for staff in child care centers, family home providers, outdoor nature-based care, and early childhood education and assistance program staff;

(c) Increasing child care and early learning providers' compensation;

(d) Implementing the provisions of collective bargaining agreements for family child care providers negotiated pursuant to RCW 41.56.028;

(e) Supporting and expanding access to the early childhood education and assistance program to reach state-funded entitlement required in RCW 43.216.556;

(f) Making child care affordable for families;

(g) Providing resources and supports for family, friend, and neighbor caregivers that better reflect the full cost of care;

(h) Providing child care subsidies for families working to resolve homelessness;

(i) Providing professional development opportunities and supporting the substitute pool for child care and early learning providers;

(j) Delivering infant and early childhood mental health consultation services;

(k) Establishing prekindergarten through third grade systems coordinators at educational service districts;

(l) Supporting youth development programs serving children and youth ages birth through 12 including, but not limited to, expanded learning opportunities, mentoring, school-age child care, and wraparound supports or integrated student supports;

(m) Awarding grants and loans through the early learning facilities grant and loan program established under chapter 43.31 RCW;

(n) Funding special designations in the working connections child care programs, early childhood education and assistance programs, and birth to three early childhood education and assistance programs including designations established in RCW 43.216.579, 43.216.585, 43.216.590, and 43.216.592;

(o) Supporting costs for transparent data collection and information technology systems operated by the department and department contractors, in particular, to ensure equitable systemic service provision and outcomes;

(p) Providing access to learning technology;

(q) Providing child care resource and referral services;

(r) Conducting quality rating and improvement system activities through the early achievers program;

(s) Expanding prenatal to three services and supports, including the birth to three early childhood education and assistance program and the in-home parent skill-based programs established in RCW 43.216.130;

(t) Building and delivering a family resource and referral linkage system;

(u) Allowing the exploration of options to provide regulatory relief and make licensing more affordable for child care providers;

(v) Administering comprehensive shared services hubs to allow the ongoing pooling and shared use of services by licensed or certified child care centers and family home providers;

(w) Training department staff to ensure consistent and equitable application of child care licensing and quality standards across the state including antibias and antiracist training;

(x) Providing incentives and supports for child care providers to become licensed;

(y) Studying and evaluating options to incentivize business participation in child care and early learning systems;

(z) Providing start-up grants to eligible organizations as described in RCW 43.31.575 who provide or commit to providing the early childhood education and assistance program or working connections child care. Start-up grants must be used for one-time start-up costs associated with the start-up of a new child care or early childhood education and assistance program site; and

(aa) Recognizing the benefits of the diverse workforce and facilitating communication in the three most commonly spoken languages by developing a language access plan that centers on equity and access for immigrants, multilingual providers, caregivers, and families.

(2) This section does not interfere with, impede, or in any way diminish the right of family child care providers to bargain collectively with the state through the exclusive bargaining representatives as provided for under RCW 41.56.028. [2021 c 199 § 102.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.216.775 Inflationary adjustments to rates. Beginning July 1, 2023, and subject to the availability of amounts appropriated for this specific purpose, rates paid under RCW 43.216.579, 43.216.585, 43.216.592, and 43.216.578 must be adjusted every two years according to an inflationary increase. The inflationary increase must be calculated by applying the rate of the increase in the inflationary adjustment index to the rates established in RCW 43.216.579, 43.216.585, 43.216.592, and 43.216.578. Any funded inflationary increase must be included in the rate used to determine inflationary increases in subsequent years. For the purposes of this section, "inflationary adjustment index" means the implicit price deflator averaged for each fiscal year, using the official current base rate, compiled by the bureau of economic analysis, United States department of commerce. [2021 c 199 § 106.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

TECHNICAL PROVISIONS

43.216.900 Early childhood education and assistance program—Short title—1985 c 418. This act shall be known as the early childhood assistance act of 1985. [1985 c 418 § 13. Formerly RCW 43.215.900, 28A.215.900, 28A.34A.904.]

43.216.901 Contingency—Effective date—1985 c 418. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect. [1985 c 418 § 12. Formerly RCW 43.215.901, 28A.215.904, 28A.34A.900.]

Reviser's note: (1) 1986 c 312 § 211 provides specific funding for the purposes of this act.

(2) 1986 c 312 took effect April 4, 1986.

43.216.902 Effective date—2006 c 265. This act takes effect July 1, 2006. [2006 c 265 § 604. Formerly RCW 43.215.905.]

Reviser's note: RCW 43.215.905 was recodified by 2017 3rd sp.s. c 6 § 821, effective July 1, 2018, and decodified by 2017 3rd sp.s. c 25 § 7.

43.216.903 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 110. Formerly RCW 43.215.908.]

43.216.904 Short title—2015 3rd sp.s. c 7. Chapter 7, Laws of 2015 3rd sp. sess. may be known and cited as the early start act. [2015 3rd sp.s. c 7 § 22. Formerly RCW 43.215.909.]

Finding—Intent—2015 3rd sp.s. c 7: See note following RCW 43.216.085.

43.216.905 Transfer of powers, duties, and functions of the department of early learning. (1) The department of early learning is hereby abolished and its powers, duties, and functions are hereby transferred to the department of children, youth, and families. All references to the director or the department of early learning in the Revised Code of Washington shall be construed to mean the secretary or the department of children, youth, and families.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of early learning shall be delivered to the custody of the department of children, youth, and families. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of early learning shall be made available to the department of children, youth, and families. All funds, credits, or other assets held by the department of early learning shall be assigned to the department of children, youth, and families.

(b) Any appropriations made to the department of early learning shall, on July 1, 2018, be transferred and credited to the department of children, youth, and families.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of early learning are transferred to the jurisdiction of the department of children,

youth, and families. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of children, youth, and families to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of early learning shall be continued and acted upon by the department of children, youth, and families. All existing contracts and obligations shall remain in full force and shall be performed by the department of children, youth, and families.

(5) The transfer of the powers, duties, functions, and personnel of the department of early learning shall not affect the validity of any act performed before July 1, 2018.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7)(a) The bargaining units of employees at the department of early learning existing on July 1, 2018, that are transferred to the department of children, youth, and families shall be considered separate appropriate units within the department of children, youth, and families unless and until modified by the public employment relations commission pursuant to Title 391 WAC. The exclusive bargaining representatives recognized as representing the bargaining units of employees at the department of early learning existing on July 1, 2018, shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

(b) The public employment relations commission may review the appropriateness of the collective bargaining units that are a result of the transfer from the department of early learning to the department of children, youth, and families under chapter 6, Laws of 2017 3rd sp. sess. The employer or the exclusive bargaining representative may petition the public employment relations commission to review the bargaining units in accordance with this section. [2018 c 58 § 81; 2017 3rd sp.s. c 6 § 802.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.906 Transfer of child welfare provisions from the department of social and health services. (1) All powers, duties, and functions of the department of social and health services pertaining to child welfare services under chapters 13.32A, 13.34, 13.36, 13.38, 13.50, 13.60, 13.64, 26.33, 26.44, 74.13, 74.13A, 74.14B, 74.14C, and 74.15 RCW are transferred to the department of children, youth, and families. All references to the secretary or the department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or the department of children, youth, and families when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of children, youth, and families. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, duties, and functions transferred shall be made available to the department of children, youth, and families. All funds, credits, or other assets held in connection with the powers, duties, and functions transferred shall be assigned to the department of children, youth, and families.

(b) Any appropriations made to the department of social and health services for carrying out the powers, duties, and functions transferred shall, on July 1, 2018, be transferred and credited to the department of children, youth, and families.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of social and health services engaged in performing the powers, duties, and functions transferred are transferred to the jurisdiction of the department of children, youth, and families. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of children, youth, and families to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of social and health services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of children, youth, and families. All existing contracts and obligations shall remain in full force and shall be performed by the department of children, youth, and families.

(5) The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed before July 1, 2018.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7)(a) The portions of any bargaining units of employees at the department of social and health services existing on July 1, 2018, that are transferred to the department of children, youth, and families shall be considered separate appropriate units within the department of children, youth, and families unless and until modified by the public employment relations commission pursuant to Title 391 WAC. The exclusive bargaining representatives recognized as representing

the portions of the bargaining units of employees at the department of social and health services existing on July 1, 2018, shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

(b) The public employment relations commission may review the appropriateness of the collective bargaining units that are a result of the transfer from the department of social and health services to the department of children, youth, and families under chapter 6, Laws of 2017 3rd sp. sess. The employer or the exclusive bargaining representative may petition the public employment relations commission to review the bargaining units in accordance with this section. [2018 c 58 § 80; 2017 3rd sp.s. c 6 § 803.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 §§ 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.

43.216.907 Transfer of juvenile justice services provisions from the department of social and health services.

(1) All powers, duties, and functions of the department of social and health services pertaining to juvenile justice services under chapters 13.04, 13.06, 13.16, 13.40, 28A.190, 28A.225, 74.14A, 72.01, 72.05, 72.09, 72.19, 71.34, and 72.72 RCW are transferred to the department of children, youth, and families. All references to the secretary or the department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or the department of children, youth, and families when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of children, youth, and families. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, duties, and functions transferred shall be made available to the department of children, youth, and families. All funds, credits, or other assets held in connection with the powers, duties, and functions transferred shall be assigned to the department of children, youth, and families.

(b) Any appropriations made to the department of social and health services for carrying out the powers, duties, and functions transferred shall, on July 1, 2019, be transferred and credited to the department of children, youth, and families.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of social and health services engaged in performing the powers, duties, and functions transferred are transferred to the jurisdiction of the department of children, youth, and families. All employees classified under chapter 41.06 RCW, the state civil service

law, are assigned to the department of children, youth, and families to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of social and health services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of children, youth, and families. All existing contracts and obligations shall remain in full force and shall be performed by the department of children, youth, and families.

(5) The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed before July 1, 2019.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7)(a) The portions of any bargaining units of employees at the department of social and health services existing on July 1, 2019, that are transferred to the department of children, youth, and families shall be considered separate appropriate units within the department of children, youth, and families unless and until modified by the public employment relations commission pursuant to Title 391 WAC. The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of social and health services existing on July 1, 2019, shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

(b) The public employment relations commission may review the appropriateness of the collective bargaining units that are a result of the transfer from the department of social and health services to the department of children, youth, and families under chapter 6, Laws of 2017 3rd sp. sess. The employer or the exclusive bargaining representative may petition the public employment relations commission to review the bargaining units in accordance with this section. [2017 3rd sp.s. c 6 § 804.]

Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804: See note following RCW 13.04.011.

43.216.908 Conflict with federal requirements—2017 3rd sp.s. c 6. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2017 3rd sp.s. c 6 § 823.]

(2022 Ed.)

43.216.909 Transfer of working connections child care and seasonal child care programs from the department of social and health services. (1) All powers, duties, and functions of the department of social and health services pertaining to the working connections child care and seasonal child care programs are transferred to the department of children, youth, and families. All references to the secretary or the department of social and health services in the Revised Code of Washington mean the secretary or the department of children, youth, and families when referring to the working connections child care program and seasonal child care program functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, duties, and functions transferred must be delivered to the custody of the department of children, youth, and families. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, duties, and functions transferred must be made available to the department of children, youth, and families. All funds, credits, or other assets held in connection with the powers, duties, and functions transferred are assigned to the department of children, youth, and families.

(b) Any appropriations made to the department of social and health services for carrying out the powers, duties, and functions transferred are, on July 1, 2019, transferred and credited to the department of children, youth, and families.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of social and health services engaged in performing the powers, duties, and working connections child care program and seasonal child care program functions transferred are transferred to the jurisdiction of the department of children, youth, and families. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of children, youth, and families to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of social and health services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of children, youth, and families. All existing contracts and obligations remain in full force and shall be performed by the department of children, youth, and families.

(5) The transfer of the powers, duties, functions, and personnel of the department of social and health services does not affect the validity of any act performed before July 1, 2019.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to

the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of social and health services assigned to the department of children, youth, and families under this section whose positions are within an existing bargaining unit description at the department of children, youth, and families must become a part of the existing bargaining unit at the department of children, youth, and families and are considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2018 c 52 § 2.]

Effective date—2018 c 52: "This act takes effect July 1, 2019." [2018 c 52 § 7.]

Intent—Finding—2018 c 52: "(1) The legislature recognizes that child care subsidy programs include the working connections child care program and the seasonal child care program. Child care subsidy programs provide children with stable, nurturing, and enriching activities while parents are supported in stable employment that contributes to financial independence. The legislature acknowledges that the department of early learning develops subsidized child care policy and conducts quality assurance for provider payments and the department of social and health services is responsible for other aspects of service delivery. The legislature intends for these child care subsidy programs to be thoughtfully integrated into the department of children, youth, and families while maintaining a delivery system that continues to support families and providers with consistent, accurate, and effective services.

(2) The legislature finds that the department of children, youth, and families submitted a report according to section 103, chapter 6, Laws of 2017 3rd sp. sess. with recommendations for effectively transferring working connections child care eligibility into the department of children, youth, and families by July 1, 2019. The legislature intends for the transfer of all aspects of service delivery of child care subsidy programs from the department of social and health services to the department of children, youth, and families to follow the recommendations of that report." [2018 c 52 § 1.]

43.216.910 Savings clause—2021 c 199. Nothing in chapter 199, Laws of 2021 changes the department's responsibility to collectively bargain over mandatory subjects consistent with RCW 41.56.028(3) or limits the legislature's authority to make programmatic modifications to licensed child care and early learning programs consistent with legislative reservation of rights under RCW 41.56.028(4)(d). [2021 c 199 § 601.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

Chapter 43.220 RCW

WASHINGTON CONSERVATION CORPS

Sections

43.220.020	Conservation corps created—Puget Sound corps created.
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43.220.250	Reimbursement of nonprofit corporations for certain services.
43.220.260	Removal of noxious weeds—Planting of plants to provide forage for pollinators.
43.220.904	Effective date—1999 c 280.
43.220.905	Intent—Application—2011 c 20.

43.220.020 Conservation corps created—Puget Sound corps created. (1) The Washington conservation corps is created. The department of ecology must administer the corps as a partnership with the departments of natural resources and fish and wildlife, the state parks and recreation commission, and when appropriate, other agencies and non-profit organizations to advance the program goals outlined in RCW 43.220.045.

(2) The Puget Sound corps is created as a distinct program within the Washington conservation corps focused on the implementation of the specific program goals outlined in RCW 43.220.045. [2011 c 20 § 2; 1999 c 280 § 1; 1994 c 264 § 32; 1988 c 36 § 23; 1983 1st ex.s. c 40 § 1.]

Findings—Intent—2011 c 20: "(1) The legislature finds that the Washington conservation corps, the veterans conservation corps, and other state and nonprofit service corps contribute significantly to the priorities of state government to protect natural resources, including Puget Sound, while providing meaningful work experience for the state's youth, veterans, unemployed, and underemployed workforces.

(2) The legislature further finds that the long-term health of the economy of Washington depends on the sustainable management of its natural resources and that the livelihoods and revenues produced by Washington's forests, agricultural lands, estuaries, waterways, and watersheds would be enhanced by targeted, streamlined, and prioritized investments in clean water and habitat restoration.

(3) The legislature further finds that it is important to stretch limited public resources to advance the state's natural resource management priorities. Transformation of natural resource management and service delivery, including the creation of strategic partnerships among agencies and nongovernmental partners, will increase the efficiency and effectiveness of the expenditure of federal, state, and local funds for clean water and habitat rehabilitation projects.

(4) The legislature further finds that there are efficiencies to be gained by streamlining how the various conservation corps are administered, managed, funded, and deployed by the natural resources agencies. There are further efficiencies to be gained through coordinating the conservation corps with other state service corps programs, recruitment activities, and through public-private partnerships.

(5) The legislature further finds that the state should seek to expand the conservation corps in all areas of the state, deploying the corps to work on projects that advance established priorities including, but not limited to, the cleanup and rehabilitation of the Puget Sound ecosystem, oil spill response and cleanup, salmon recovery, and the reduction of wildfire and forest health hazards statewide.

(6) The legislature further finds that individuals with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society. As such, the legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program individuals with developmental disabilities, as defined in RCW 71A.10.020.

(7)(a) Therefore, it is the intent of the legislature to maintain the conservation corps statewide, to collaborate with the veterans conservation corps, to establish the Puget Sound corps, to streamline how government administers and manages the state's conservation corps to more efficiently expend the state's resources toward priority outcomes, including the recovery of the Puget Sound ecosystem to health by 2020, to increase opportunities for meaningful work experience, and to authorize public-private partnerships as a key element of corps activities.

(b) It is also the intent of the legislature to integrate into the Puget Sound corps the therapeutic and reintegration intent of the veterans conservation corps for veterans involved in the Puget Sound corps." [2011 c 20 § 1.]

43.220.040 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency administrative costs" means indirect expenses such as personnel, payroll, contract administration, fiscal services, and other overhead costs.

(2) "Corps" means the Washington conservation corps, including the Puget Sound corps.

(3) "Corps member" means an individual enrolled in the Washington conservation corps.

(4) "Corps member leaders" or "specialists" means members of the corps who serve in leadership or training capacities or who provide specialized services other than or in addition to the types of work and services that are performed by the corps members in general.

(5) "Crew supervisor" means temporary, project, or permanent state employees who supervise corps members and coordinate work project design and completion.

(6) "Department" means the department of ecology.

(7) "Program support costs" include, but are not limited to, program planning, development of reports, job and career training, uniforms and equipment, and standard office space and utilities. Program support costs do not include direct scheduling and supervision of corps members.

(8) "Public lands" means any lands or waters, or interests therein, owned or administered by any agency or instrumentality of the state, federal, or local government. [2011 c 20 § 4. Prior: 1999 c 280 § 3; 1999 c 151 § 1301; 1987 c 367 § 2; 1983 1st ex.s. c 40 § 4.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

Additional notes found at www.leg.wa.gov

43.220.045 Project goals—Recovery of Puget Sound ecosystem—Priorities. (1) The corps shall be organized and managed to complete projects with fee-for-service work crews that meet goals associated with the protection, promotion, enhancement, or rehabilitation of the following:

- (a) Public lands;
- (b) State natural resources;
- (c) Water quality;
- (d) Watershed health;
- (e) Fish and wildlife;
- (f) Habitat;
- (g) Outdoor recreation;
- (h) Forest health;
- (i) Wildfire risk reduction; and
- (j) State historic sites.

(2) In addition to the project goals outlined in subsection (1) of this section, the Puget Sound corps shall seek to deploy corps members with the specific goal of participating in the recovery of the Puget Sound ecosystem. The resources of the Puget Sound corps must be prioritized, when practicable, to focus on the following when located within the Puget Sound basin:

- (a) Projects identified in, or consistent with, the action agenda developed by the Puget Sound partnership in chapter 90.71 RCW;
- (b) Projects located on public lands;
- (c) Habitat enhancement and rehabilitation projects; and
- (d) Education and stewardship projects.

(3) Both the corps and the Puget Sound corps shall give preference to projects that satisfy the goals identified in this section and that:

- (a) Will provide long-term benefits to the public;
- (b) Will provide productive training and work experiences to the corps members involved;

(c) Expands or integrates training programs or career development opportunities for corps members;

(d) May result in payments to the state for services performed; and

(e) Can be promptly completed. [2011 c 20 § 5.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

43.220.060 Powers and duties—Partnering with other entities—Effect on employed workers—Use of facilities, supplies, instruments, and tools of supervising agency. (1) The department shall have the following powers and duties as necessary to administer the Washington conservation corps:

(a) Recruiting and employing staff, corps members, corps member leaders, and specialists consistent with RCW 43.220.070;

(b) Serving as the corps' central application recipient for grants from federal service projects and service organizations;

(c) Executing agreements for furnishing the services of the corps to carry out conservation corps programs to any federal, state, or local public agency, any local organization as specified in this chapter that operates consistent with the overall objectives of the conservation corps;

(d) Applying for and accepting grants or contributions of funds from the federal government, other public sources, or private funding sources for conservation corps projects and, when possible, other projects specifically targeted at Puget Sound recovery that can be accomplished with fee-for-service labor from the Puget Sound corps. Application priority must be given to funding sources only available to state agencies;

(e) Establishing consistent work standards and placement and evaluation procedures of corps programs; and

(f) Selecting, reviewing, approving, and evaluating the success of corps projects.

(2) The department may partner with any other state agencies, local institutions, nonprofit organizations, or nonprofit service corps organizations in the administration of the corps. However, when partnering with the Washington department of veterans affairs, participation criteria and other administrative decisions affecting participants in the veterans conservation corps created under chapter 43.60A RCW are to be determined by the Washington department of veterans affairs. Other state agencies may maintain a coordinator for the purposes of partnering with the department and the corps.

(3) If deemed practicable, the department shall work with the state board for community and technical colleges created in RCW 28B.50.050 to align the conservation corps program with optional career pathways for participants that may provide instruction in basic skills in addition to the appropriate technical training.

(4) The assignment of corps members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Agencies that participate in the program may not terminate, lay-off, or reduce the working hours of any employee for the purpose of using a corps member with available funds. In circumstances where substantial efficiencies or a public purpose may result, participating agencies may use corps members to carry out

essential agency work or contractual functions without displacing current employees.

(5) Facilities, supplies, motor vehicles, instruments, and tools of participating agencies shall be made available for use by the conservation corps to the extent that such use does not conflict with the normal duties of the agency. The agency may purchase, rent, or otherwise acquire other necessary tools, facilities, supplies, and instruments. [2011 c 20 § 6; 1999 c 280 § 4; 1987 c 505 § 44; 1983 1st ex.s. c 40 § 6.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

43.220.070 Corps membership—Eligibility—Coordination of recruitment activities—Enrollment period.

(1)(a) Except as otherwise provided in this section, conservation corps members must be unemployed or underemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States.

(b) The age requirements may be waived for corps leaders, veterans, specialists with special leadership or occupational skills, and participants with a disability.

(2) The recruitment of conservation corps members is the primary responsibility of the department. However, to the degree practicable, recruitment activities must be coordinated with the following entities:

- (a) The department of natural resources;
- (b) The department of fish and wildlife;
- (c) The state parks and recreation commission;
- (d) The Washington department of veterans affairs;
- (e) The employment security department;
- (f) Community and technical colleges; and
- (g) Any other interested postsecondary educational institutions.

(3) Recruitment efforts must be targeted to, but not limited to, residents of the state who meet the participation eligibility requirements provided in this section and are either:

- (a) A student enrolled at a community or technical college, private career college, or a four-year college or university;
- (b) A minority or disadvantaged youth residing in an urban or rural area of the state; or
- (c) Military veterans.

(4) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew supervisors, who shall be project employees, and the administrative and supervisory personnel.

(5) Except as otherwise provided in this section, participation as a corps member is for an initial period of three months. The enrollment period may be extended for additional three-month periods by mutual agreement of the department and the corps member, not to exceed two years.

(6)(a) Corps members are to be available at all times for emergency response services coordinated through the department or other public agency. Duties may include sandbagging and flood cleanup, oil spill response, wildfire suppression, search and rescue, and other functions in response to emergencies.

(b) Corps members may be assigned to longer-term specialized crews not subject to the temporal limitations of service otherwise imposed by this section when longer-term commitments satisfy the specialized needs of the department, an agency partner, or other service contractee. [2020 c 274 § 27; 2011 c 20 § 7; 1999 c 280 § 5; 1995 c 399 § 112; 1990 c 71 § 2; 1988 c 78 § 1; 1986 c 266 § 48. Prior: 1985 c 230 § 7; 1985 c 7 § 110; 1983 1st ex.s. c 40 § 7.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

Legislative finding—1990 c 71: "The legislature finds that the Washington conservation corps has proven to be an effective method to provide meaningful work experience for many of the state's young persons. Because of recent, and possible future, increases in the minimum wage laws, it is necessary to make an adjustment in the limitation that applies to corps member reimbursements." [1990 c 71 § 1.]

Additional notes found at www.leg.wa.gov

43.220.075 Annual meeting—Forum for partner agencies—Work plan.

(1) The director of the department of ecology and the commissioner of public lands shall jointly host an annual meeting with other corps program participants to serve as a forum for the partner agencies to provide guidance and feedback concerning the management and function of the corps.

(2) At a minimum, representatives of the following must be invited to participate at the annual meeting: The department of fish and wildlife; the state parks and recreation commission; the Puget Sound partnership; the department of veterans affairs; the employment security department; the Washington commission for national and community service; conservation districts; the state conservation commission; the salmon recovery funding board; the recreation and conservation office; the department of commerce; the department of health; or any similar successor organizations and any appropriate nonprofit organizations, including those engaged in service corps projects.

(3) Annual meeting participants shall, at a minimum:

(a) Review the conservation corps projects completed in the previous year, including an analysis of successes and opportunities for improvement; and

(b) Establish a work plan for the coming year, including the setting of annual priorities or criteria consistent with this chapter to guide crew development and the development of plans to pursue funding from various sources to expand the conservation corps. [2011 c 20 § 11.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

43.220.170 Exemption from unemployment compensation coverage.

The services of corps members are exempt from unemployment compensation coverage under RCW 50.44.040(4) and the enrollees shall be so advised by the department. [2011 c 20 § 8; 1983 1st ex.s. c 40 § 17.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

43.220.231 Limitation on use of funds. (1) An amount not to exceed five percent of the funds available for the Washington conservation corps may be expended on agency administrative costs.

(2) An amount not to exceed twenty percent of the funds available for the Washington conservation corps may be

expended for costs included in subsection (1) of this section and program support costs.

(3) A minimum of eighty percent of the funds available for the Washington conservation corps shall be expended for corps member salaries and benefits and for direct supervision of corps members.

(4) Consistent with any fund source requirements, any state agency using federal funds to sponsor fee-for-service Washington conservation corps crews must contract with the Washington department of veterans affairs for at least five percent of the federal funding to sponsor veteran conservation corps crews operating under RCW 43.60A.150. This requirement applies statewide. [2011 c 20 § 9; 1999 c 280 § 7.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

43.220.250 Reimbursement of nonprofit corporations for certain services. A nonprofit corporation which contracts with the department to provide a specific service, appropriate for the administration of this chapter which the department cannot otherwise provide, may be reimbursed at the discretion of the department for the reasonable costs the department would absorb for providing those services. [2011 c 20 § 10; 1985 c 230 § 5.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

43.220.260 Removal of noxious weeds—Planting of plants to provide forage for pollinators. Any corps project that involves the removal of noxious weeds must, when deemed appropriate for the project goals by the project sponsor, include the planting of pollen-rich and nectar-rich native plants to provide forage for all pollinators, including honey bees. [2016 c 44 § 3.]

43.220.904 Effective date—1999 c 280. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 13, 1999]. [1999 c 280 § 9.]

43.220.905 Intent—Application—2011 c 20. It is the intent of this act to centralize the administration of the Washington conservation corps, which was previously administered by the departments of ecology, natural resources, and fish and wildlife and the state parks and recreation commission, into the department of ecology. This act is prospective only, and any grant awards or conservation corps crew or individual placements finalized by other agencies or partners prior to July 22, 2011, remain unaffected by this act. [2011 c 20 § 3.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

Chapter 43.235 RCW DOMESTIC VIOLENCE FATALITY REVIEW PANELS

Sections

43.235.010	Definitions.
43.235.020	Department authorized to make available grants awarded on a contract basis—Coordination of review—Authority of coordinating entity—Regional and statewide domestic violence fatality review panels—Citizen requests.

43.235.030	Domestic violence fatality review panels—Composition—Reports.
43.235.040	Confidentiality—Access to information.
43.235.050	Immunity from liability.
43.235.060	Data collection and analysis.
43.235.800	Statewide report.
43.235.900	Conflict with federal requirements—2000 c 50.
43.235.901	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

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

(1) "Department" means the department of social and health services.

(2) "Domestic violence fatality" means a homicide or suicide under any of the following circumstances:

(a) The alleged perpetrator and victim resided together at any time;

(b) The alleged perpetrator and victim have a child in common;

(c) The alleged perpetrator and victim were married, divorced, separated, or had a dating relationship;

(d) The alleged perpetrator had been stalking the victim;

(e) The homicide victim lived in the same household, was present at the workplace of, was in proximity of, or was related by blood or affinity to a victim who experienced or was threatened with domestic abuse by the alleged perpetrator; or

(f) The victim or perpetrator was a child of a person in a relationship that is described within this subsection.

This subsection should be interpreted broadly to give the domestic violence fatality review panels discretion to review fatalities that have occurred directly to domestic relationships. [2000 c 50 § 1.]

43.235.020 Department authorized to make available grants awarded on a contract basis—Coordination of review—Authority of coordinating entity—Regional and statewide domestic violence fatality review panels—Citizen requests. (1) The department is authorized, subject to the availability of state funds, to make available grants awarded on a contract basis to an entity with expertise in domestic violence policy and education and with a statewide perspective to gather and maintain data relating to and coordinate review of domestic violence fatalities.

(2) The coordinating entity shall be authorized to:

(a) Convene regional review panels;

(b) Convene statewide issue-specific review panels;

(c) Gather information for use of regional or statewide issue-specific review panels;

(d) Provide training and technical assistance to regional or statewide issue-specific review panels;

(e) Compile information and issue reports with recommendations; and

(f) Establish a protocol that may be used as a guideline for identifying domestic violence related fatalities, forming review panels, convening reviews, and selecting which cases to review. The coordinating entity may also establish protocols for data collection and preservation of confidentiality.

(3)(a) The coordinating entity may convene a regional or statewide issue-specific domestic violence fatality review panel to review any domestic violence fatality.

(b) Private citizens may request a review of a particular death by submitting a written request to the coordinating entity within two years of the death. Of these, the appropriate regional review panel may review those cases which fit the criteria set forth in the protocol for the project. [2015 c 275 § 12; 2011 c 105 § 1; 2000 c 50 § 2.]

43.235.030 Domestic violence fatality review panels—Composition—Reports. (1) Regional domestic violence fatality review panels may include, as appropriate, the following:

- (a) Medical personnel with expertise in domestic violence abuse;
- (b) Coroners or medical examiners or others experienced in the field of forensic pathology, if available;
- (c) County prosecuting attorneys or municipal attorneys;
- (d) Domestic violence shelter service staff or domestic violence victims' advocates;
- (e) Law enforcement personnel;
- (f) Local health department staff;
- (g) Child protective services workers;
- (h) Community corrections professionals;
- (i) Perpetrator treatment program provider;
- (j) School teachers, guidance counselors, or student health services staff; and
- (k) Judges, court administrators, and/or their representatives.

(2) Regional domestic violence fatality review panels may also invite other relevant persons to serve on an ad hoc basis and participate as full members of the review panel for a particular review. These persons may include, but are not limited to:

- (a) Individuals with particular expertise helpful to the regional review panel;
- (b) Representatives of organizations or agencies that had contact with or provided services to the homicide victim or to the alleged perpetrator.

(3) The regional review panels shall make periodic reports to the coordinating entity and shall make a final report to the coordinating entity with regard to every fatality that is reviewed.

(4) Statewide issue-specific panels must include persons with particular subject matter expertise helpful to the panel. The statewide issue-specific review panels must make periodic reports to the coordinating entity and must make a final report to the coordinating entity for every fatality that is reviewed. [2011 c 105 § 2; 2000 c 50 § 3.]

43.235.040 Confidentiality—Access to information.

(1) An oral or written communication or a document shared with the coordinating entity or within or produced by a domestic violence fatality review panel related to a domestic violence fatality review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to the coordinating entity or a domestic violence fatality review panel, or between a third party and a domestic violence fatality review panel, related to a domestic violence fatality review is confidential and not subject to disclosure or discovery by a third party. Notwithstanding the foregoing, recommendations from the domestic violence fatality review panel

and the coordinating entity generally may be disclosed minus personal identifiers.

(2) The coordinating entity and review panels, only to the extent otherwise permitted by law or court rule, shall have access to information and records regarding the domestic violence victims and perpetrators under review held by domestic violence perpetrators' treatment providers; dental care providers; hospitals, medical providers, and pathologists; coroners and medical examiners; mental health providers; lawyers; the state and local governments; the courts; and employers. The coordinating entity and the review panels shall maintain the confidentiality of such information to the extent required by any applicable law.

(3) The coordinating entity or review panels shall review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary to an investigation, guardian ad litem reports, parenting evaluations, and victim impact statements; probation information; mental health evaluations done for court; presentence interviews and reports, and any recommendations made regarding bail and release on own recognizance; child protection services, welfare, and other information held by the department; any law enforcement incident documentation, such as incident reports, dispatch records, victim, witness, and suspect statements, and any supplemental reports, probable cause statements, and 911 call taker's reports; corrections and post-sentence supervision reports; and any other information determined to be relevant to the review. The coordinating entity and the review panels shall maintain the confidentiality of such information to the extent required by any applicable law. [2015 c 275 § 13; 2012 c 223 § 6; 2000 c 50 § 4.]

43.235.050 Immunity from liability. If acting in good faith, without malice, and within the parameters of this chapter and the protocols established, representatives of the coordinating entity and the statewide and regional domestic violence fatality review panels are immune from civil liability for an activity related to reviews of particular fatalities. [2012 c 223 § 7; 2000 c 50 § 5.]

43.235.060 Data collection and analysis. Within available funds, data regarding each domestic violence fatality review shall be collected on standard forms created by the coordinating entity. Data collected on reviewed fatalities shall be compiled and analyzed for the purposes of identifying points at which the system response to domestic violence could be improved and identifying patterns in domestic violence fatalities. [2000 c 50 § 6.]

43.235.800 Statewide report. A biennial statewide report shall be issued by the coordinating entity in December of even-numbered years, ending in 2010. The coordinating entity may subsequently issue periodic reports containing recommendations on policy changes that would improve program performance, and issues identified through the work of the regional panels. Copies of this report shall be distributed to the governor, to the appropriate legislative committees, and to those agencies involved in the regional domestic violence fatality review panels. [2011 c 105 § 3; 2000 c 50 § 7.]

43.235.900 Conflict with federal requirements—2000 c 50. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2000 c 50 § 9.]

43.235.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 111.]

Chapter 43.250 RCW
INVESTMENT OF LOCAL GOVERNMENT FUNDS—
SEPARATELY MANAGED ACCOUNTS

(Formerly: Investment of local government funds)

Sections

43.250.010	Purpose.
43.250.020	Definitions.
43.250.030	Public funds investment account.
43.250.040	Investment pool—Investment of funds by state treasurer—Degree of judgment and care required.
43.250.050	Investment pool—Employment of personnel.
43.250.060	Investment pool—Generally.
43.250.070	Investment pool—Separate accounts for participants—Monthly status report.
43.250.080	Investment pool—Annual summary of activity.
43.250.150	Separately managed public funds investment account.
43.250.160	Separately managed state agency investment account.
43.250.170	Separately managed state treasurer's service account.
43.250.180	Separately managed accounts—Agreements—Rule making.
43.250.190	Separately managed accounts—Investment of funds by state treasurer—Degree of judgment and care required.
43.250.200	Separately managed accounts—Employment of personnel.

Investment accounting: RCW 43.33A.180.

43.250.010 Purpose. The purpose of this chapter is to enable eligible governmental entities, including community and technical college districts, the state board for community and technical colleges as established in chapter 28B.50 RCW, public four-year institutions of higher education, qualifying federally recognized tribes or federally recognized political subdivisions thereof, and other governmental entities to participate with the state in providing maximum opportunities for the investment of surplus public funds consistent with the safety and protection of such funds. The legislature finds and declares that the public interest is found in

providing maximum prudent investment of surplus funds, thereby reducing the need for additional taxation. The legislature also recognizes that not all eligible governmental entities are able to maximize the return on their temporary surplus funds. The legislature therefore provides in this chapter a mechanism whereby eligible governmental entities may, at their option, utilize the resources of the state treasurer's office to maximize the potential of surplus funds while ensuring the safety of those funds. [2010 1st sp.s. c 10 § 1; 2001 c 31 § 1; 1996 c 268 § 1; 1986 c 294 § 1.]

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

(1) "Authorized tribal official" means any officer or employee of a qualifying federally recognized tribe who has been expressly designated by tribal constitution, ordinance, or resolution as the officer having the authority to invest the funds of the qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(2) "Eligible governmental entity" means any county, city, town, municipal corporation, quasi-municipal corporation, public corporation, political subdivision, or special purpose taxing district in the state, an instrumentality of any of the foregoing governmental entities created under chapter 39.34 RCW, any agency of state government, any entity issuing or executing and delivering bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, and any qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(3) "Financial officer" means the board-appointed treasurer of a community or technical college district, the state board for community and technical colleges, or a public four-year institution of higher education.

(4) "Funds" means:

(a) Funds of an eligible governmental entity under the control of or in the custody of any government finance official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands; and

(b) Tribal funds under the control of or in the custody of any qualifying federally recognized tribe or federally recognized political subdivisions thereof, where the tribe warrants that the use or disposition of the funds are either not subject to, or are used and deposited with federal approval, and where the tribe warrants that the funds are not immediately required to meet current demands.

(5) "Government finance official" means any officer or employee of an eligible governmental entity who has been designated by statute or by local charter, ordinance, resolution, or other appropriate official action, as the officer having the authority to invest the funds of the eligible governmental entity. However, the county treasurer shall be deemed the only government finance official for all public agencies for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(6) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsec-

tion (4) of this section that are placed in the custody of the state treasurer for pooled investment and reinvestment.

(7) "Qualifying federally recognized tribe or federally recognized political subdivisions thereof" means any federally recognized tribe, located in the state of Washington, authorized and empowered by its constitution or ordinance to invest its surplus funds pursuant to this section, and whose authorized tribal official has executed a deposit agreement with the office of the treasurer.

(8) "Separately managed accounts" means both the separately managed public funds investment account and the separately managed state agency investment account.

(9) "Separately managed public funds investment account" means the aggregate of all funds defined in subsection (4) of this section, except those that are remitted by state agencies, that are placed in the custody of the state treasurer for investment and reinvestment in separate portfolios.

(10) "Separately managed state agency investment account" means the aggregate of all funds defined in subsection (4) of this section that are remitted by state agencies and that are placed in the custody of the state treasurer for investment and reinvestment in separate portfolios. [2019 c 163 § 1; 2016 c 152 § 19. Prior: 2010 1st sp.s. c 10 § 2; 2001 c 31 § 2; 1996 c 268 § 2; 1990 c 106 § 1; 1986 c 294 § 2.]

43.250.030 Public funds investment account. There is created a trust fund to be known as the public funds investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted for pooled investment under this chapter shall be deposited in this account. All earnings on any balances in the public funds investment account, less moneys for administration pursuant to RCW 43.250.060, shall be credited to the public funds investment account. [2019 c 163 § 2; 1991 sp.s. c 13 § 86; 1990 c 106 § 2; 1986 c 294 § 3.]

Additional notes found at www.leg.wa.gov

43.250.040 Investment pool—Investment of funds by state treasurer—Degree of judgment and care required. If authorized by statute, local ordinance, resolution, or other appropriate official action, the state treasurer, a government finance official or financial officer or his or her designee, or authorized tribal official, may place funds into the public funds investment account for investment and reinvestment by the state treasurer in those securities and investments set forth in RCW 43.84.080 and chapter 39.58 RCW. The state treasurer shall invest the funds in such manner as to effectively maximize the yield to the investment pool. In investing and reinvesting moneys in the public funds investment account and in acquiring, retaining, managing, and disposing of investments of the investment pool, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital. [2010 1st sp.s. c 10 § 3; 2001 c 31 § 3; 1996 c 268 § 3; 1986 c 294 § 4.]

43.250.050 Investment pool—Employment of personnel. The state treasurer's office is authorized to employ

such personnel as are necessary to administer the public funds investment account. The bond of the state treasurer as required by law shall be made to include the faithful performance of all functions relating to the investment pool. [1986 c 294 § 5.]

43.250.060 Investment pool—Generally. The state treasurer shall by rule prescribe the time periods for investments in the investment pool and the procedure for withdrawal of funds from the investment pool. The state treasurer shall promulgate such other rules as are deemed necessary for the efficient operation of the investment pool. The rules shall also provide for the administrative expenses of the investment pool, including repayment of the initial administrative costs financed out of the appropriation included in chapter 294, Laws of 1986, to be paid from the pool's earnings and for the interest earnings in excess of the expenses to be credited or paid to participants in the pool. The state treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any funds appropriated and expended for the initial administrative costs of the pool. Any credits or payments to the participants shall be calculated and made in a manner which equitably reflects the differing amounts of the participants' respective deposits in the investment pool fund and the differing periods of time for which the amounts were placed in the investment pool. [1990 c 106 § 3; 1986 c 294 § 6.]

43.250.070 Investment pool—Separate accounts for participants—Monthly status report. The state treasurer shall keep a separate account for each participant having funds in the investment pool. Each separate account shall record the individual amounts deposited in the investment pool, the date of withdrawals, and the earnings credited or paid. The state treasurer shall report monthly the status of the respective account to each participant having funds in the pool during the previous month. [1990 c 106 § 4; 1986 c 294 § 7.]

43.250.080 Investment pool—Annual summary of activity. At the end of each fiscal year, the state treasurer shall submit to the governor, the state auditor, and the joint legislative audit and review committee a summary of the activity of the investment pool. The summary shall indicate the quantity of funds deposited; the earnings of the pool; the investments purchased, sold, or exchanged; the administrative expenses of the investment pool; and such other information as the state treasurer deems relevant. [1996 c 288 § 48; 1986 c 294 § 8.]

43.250.150 Separately managed public funds investment account. There is created a trust fund to be known as the separately managed public funds investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted for investment in separate portfolios under this chapter, except those remitted by state agencies, shall be deposited in this account. All earnings on any balances in the separately managed public funds investment account, less amounts charged by the office of the state treasurer, shall be credited to the separately managed public funds investment account. [2019 c 163 § 4.]

43.250.160 Separately managed state agency investment account. There is created a trust fund to be known as the separately managed state agency investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted by state agencies for investment in separate portfolios under this chapter shall be deposited in this account. All earnings on any balances in the separately managed state agency investment account, less amounts charged by the office of the state treasurer, shall be credited to the separately managed state agency investment account. [2019 c 163 § 5.]

43.250.170 Separately managed state treasurer's service account. A separately managed state treasurer's service account is created in the custody of the state treasurer. The account is not subject to appropriation or allotment procedures. All moneys received from separately managed accounts for payment to the office of the state treasurer must be deposited into the separately managed state treasurer's service account. Expenditures from the separately managed state treasurer's service account may be made solely for the operation of the separately managed accounts investment program. Only the treasurer or the treasurer's designee may authorize expenditures from the separately managed state treasurer's service account. [2019 c 163 § 6.]

43.250.180 Separately managed accounts—Agreements—Rule making. If the office of the state treasurer enters into an agreement with an eligible governmental entity for a separately managed account, the agreement must provide for service charges at rates to allow for operation of the program at no cost to the state and for accumulation of reserves the state treasurer deems necessary for the prudent management of the separately managed account. The agreement must at minimum include the payment for services, time periods for investments, and provisions for orderly withdrawal of funds. The state treasurer may promulgate such rules as are deemed necessary for the efficient operation of the separately managed account. [2019 c 163 § 3.]

43.250.190 Separately managed accounts—Investment of funds by state treasurer—Degree of judgment and care required. Funds placed in separately managed accounts pursuant to agreements between the office of the state treasurer and eligible governmental entities shall be invested and reinvested by the state treasurer so as to effectively maximize the yield to the separately managed account portfolios. In investing and reinvesting moneys in the separately managed accounts and in acquiring, retaining, managing, and disposing of investments of the separately managed accounts, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital. The state treasurer shall also consider the public policies of Washington and the values of its citizens when making investment-related decisions. [2019 c 163 § 7.]

(2022 Ed.)

43.250.200 Separately managed accounts—Employment of personnel. The state treasurer's office is authorized to employ such personnel as are necessary to administer the separately managed accounts. The bond of the state treasurer as required by law shall be made to include the faithful performance of all functions relating to the separately managed accounts. [2019 c 163 § 8.]

Chapter 43.270 RCW

COMMUNITY MOBILIZATION AGAINST SUBSTANCE ABUSE

Sections

43.270.010	Intent.
43.270.020	Grant program—Application—Activities funded.
43.270.040	Coordinated strategies.
43.270.070	Community suggestions.
43.270.080	Gifts, grants, and endowments.

43.270.010 Intent. The legislature recognizes that statewide efforts aimed at reducing the incidence of substance abuse, including alcohol, tobacco, or other drug abuse, or violence must be increased. The legislature further recognizes that the most effective strategy for reducing the impact of alcohol, tobacco, other drug abuse, and violence is through the collaborative efforts of educators, law enforcement, local government officials, local treatment providers, and concerned community and citizens' groups.

The legislature intends to support the development and activities of community mobilization strategies against alcohol, tobacco, or other drug abuse, and violence, through the following efforts:

- (1) Providing funding support for prevention, treatment, and enforcement activities identified by communities that have brought together education, treatment, local government, law enforcement, and other key elements of the community;
- (2) Providing technical assistance and support to help communities develop and carry out effective activities; and
- (3) Providing communities with opportunities to share suggestions for state program operations and budget priorities. [2001 c 48 § 1; 1989 c 271 § 315.]

43.270.020 Grant program—Application—Activities funded. (1) There is established in the *department of community, trade, and economic development a grant program to provide incentive for and support for communities to develop targeted and coordinated strategies to reduce the incidence and impact of alcohol, tobacco, or other drug abuse, or violence.

(2) The *department of community, trade, and economic development shall make awards, subject to funds appropriated by the legislature, under the following terms:

(a) Starting July 1, 2001, funds will be available to countywide programs through a formula developed by the *department of community, trade, and economic development in consultation with program contractors, which will take into consideration county population size.

(b) In order to be eligible for consideration, applicants must demonstrate, at a minimum:

(i) That the community has developed and is committed to carrying out a coordinated strategy of prevention, treatment, and law enforcement activities;

(ii) That the community has considered research-based theory when developing its strategy;

(iii) That proposals submitted for funding are based on a local assessment of need and address specific objectives contained in a coordinated strategy of prevention, treatment, and law enforcement against alcohol, tobacco, or other drug abuse, or violence;

(iv) Evidence of active participation in preparation of the proposal and specific commitments to implementing the community-wide agenda by leadership from education, law enforcement, local government, tribal government, and treatment entities in the community, and the opportunity for meaningful involvement from others such as neighborhood and citizen groups, businesses, human service, health and job training organizations, and other key elements of the community, particularly those whose responsibilities in law enforcement, treatment, prevention, education, or other community efforts provide direct, ongoing contact with substance abusers or those who exhibit violent behavior, or those at risk for alcohol, tobacco, or other drug abuse, or violent behavior;

(v) Evidence of additional local resources committed to the applicant's strategy totaling at least twenty-five percent of funds awarded under this section. These resources may consist of public or private funds, donated goods or services, and other measurable commitments, including in-kind contributions such as volunteer services, materials, supplies, physical facilities, or a combination thereof; and

(vi) That the funds applied for, if received, will not be used to replace funding for existing activities.

(c) At a minimum, grant applications must include the following:

(i) A definition of geographic area;

(ii) A needs assessment describing the extent and impact of alcohol, tobacco, or other drug abuse, and violence in the community, including an explanation of those who are most severely impacted and those most at risk of substance abuse or violent behavior;

(iii) An explanation of the community-wide strategy for prevention, treatment, and law enforcement activities related to alcohol, tobacco, or other drug abuse, or violence, with particular attention to those who are most severely impacted and/or those most at risk of alcohol, tobacco, or other drug abuse, or violent behavior;

(iv) An explanation of who was involved in development of the strategy and what specific commitments have been made to carry it out;

(v) Identification of existing prevention, education, treatment, and law enforcement resources committed by the applicant, including financial and other support, and an explanation of how the applicant's strategy involves and builds on the efforts of existing organizations or coalitions that have been carrying out community efforts against alcohol, tobacco, or other drug abuse, or violence;

(vi) Identification of activities that address specific objectives in the strategy for which additional resources are needed;

(vii) Identification of additional local resources, including public or private funds, donated goods or services, and

other measurable commitments, that have been committed to the activities identified in (c)(vi) of this subsection;

(viii) Identification of activities that address specific objectives in the strategy for which funding is requested;

(ix) For each activity for which funding is requested, an explanation in sufficient detail to demonstrate:

(A) Feasibility through deliberative design, specific objectives, and a realistic plan for implementation;

(B) A rationale for how this activity will achieve measurable results and how it will be evaluated;

(C) That funds requested are necessary and appropriate to effectively carry out the activity; and

(x) Identification of a contracting agent meeting state requirements for each activity proposed for funding.

Each contracting agent must execute a written agreement with its local community mobilization advisory board that reflects the duties and powers of each party.

(3) Activities that may be funded through this grant program include those that:

(a) Prevent alcohol, tobacco, or other drug abuse, or violence through educational efforts, development of positive alternatives, intervention with high-risk groups, and other prevention strategies;

(b) Support effective treatment by increasing access to and availability of treatment opportunities, particularly for underserved or highly impacted populations, developing aftercare and support mechanisms, and other strategies to increase the availability and effectiveness of treatment;

(c) Provide meaningful consequences for participation in illegal activity and promote safe and healthy communities through support of law enforcement strategies;

(d) Create or build on efforts by existing community programs, coordinate their efforts, and develop cooperative efforts or other initiatives to make most effective use of resources to carry out the community's strategy against alcohol, tobacco, or other drug abuse, or violence; and

(e) Other activities that demonstrate both feasibility and a rationale for how the activity will achieve measurable results in the strategy against alcohol, tobacco, or other drug abuse, or violence. [2001 c 48 § 2; 1989 c 271 § 316.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.270.040 Coordinated strategies. This grant program will be available to communities of any geographic size but will encourage and reward communities which develop coordinated or complimentary strategies within geographic areas such as county areas or groups of county areas which correspond to units of government with significant responsibilities in the area of substance abuse, existing coalitions, or other entities important to the success of a community's strategy against substance abuse. [1989 c 271 § 318.]

43.270.070 Community suggestions. The *department of community, trade, and economic development shall ask communities for suggestions on state practices, policies, and priorities that would help communities implement their strategies against alcohol, tobacco, or other drug abuse, or violence. The *department of community, trade, and economic development shall review and respond to those suggestions making necessary changes where feasible, making recom-

mendations to the legislature where appropriate, and providing an explanation as to why suggested changes cannot be accomplished, if the suggestions cannot be acted upon. [2001 c 48 § 3; 1989 c 271 § 321.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.270.080 Gifts, grants, and endowments. The *department of community, trade, and economic development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of RCW 43.270.010 through 43.270.080 and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [2001 c 48 § 4; 1989 c 271 § 322.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Chapter 43.280 RCW

COMMUNITY TREATMENT SERVICES FOR VICTIMS OF SEXUAL ASSAULT

(Formerly: Community treatment services for victims of sex offenders)

Sections

43.280.010	Intent.
43.280.011	Intent—Approval of committee recommendations.
43.280.020	Grant program—Funding.
43.280.040	Organizations eligible.
43.280.050	Applications—Minimum requirements.
43.280.060	Awarding of grants.
43.280.070	Gifts, grants, and endowments.
43.280.080	Office of crime victims advocacy.
43.280.090	Office of crime victims advocacy—Ad hoc advisory committees.
43.280.091	Statewide coordinating committee on sex trafficking.
43.280.095	Statewide training on Washington's human trafficking laws—Training entity—Report.
43.280.100	Revenue collection under RCW 9.68A.105, 9A.88.120, or 9A.88.140—Expenditure of revenue—Conditions—Report.
43.280.110	Public restrooms—Model notice on human trafficking—Voluntary posting—Report to legislature.

43.280.010 Intent. The legislature recognizes the need to increase the services available to the victims of sexual assault. The legislature also recognizes that these services are most effectively planned and provided at the local level through the combined efforts of concerned community and citizens groups, treatment providers, and local government officials. The legislature further recognizes that adequate services for victims is not only a matter of justice for the victim, but also a method by which additional abuse can be prevented.

The legislature intends to enhance the community-based services available to the victims of sexual assault by:

(1) Providing consolidated funding support for local programs which provide services to victims of sexual assault, as defined in RCW 70.125.030;

(2) Providing technical assistance and support to help communities plan for and provide victim services;

(3) Providing sexual assault services with a victim-focused mission, and consistent standards, policies, and granting and reporting requirements; and

(4) Providing communities and local victim service providers with opportunities to share information about success-

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ful prevention and treatment programs. [2012 c 29 § 1; 1996 c 123 § 2; 1990 c 3 § 1201.]

Additional notes found at www.leg.wa.gov

43.280.011 Intent—Approval of committee recommendations. The Washington state sexual assault services advisory committee issued a report to the department of commerce and the department of social and health services in June of 1995. The committee made several recommendations to improve the delivery of services to victims of sexual assault: (1) Consolidate the administration and funding of sexual assault and abuse services in one agency instead of splitting those functions between the department of social and health services and the department of commerce; (2) adopt a funding allocation plan to pool all funds for sexual assault services and to distribute them across the state to ensure the delivery of core and specialized services; (3) establish service, data collection, and management standards and outcome measurements for recipients of grants; and (4) create a data collection system to gather pertinent data concerning the delivery of sexual assault services to victims.

The legislature approves the recommendations of the advisory committee and consolidates the functions and funding for sexual assault services in the department of commerce to implement the advisory committee's recommendations. [2012 c 29 § 2; 1996 c 123 § 1.]

Additional notes found at www.leg.wa.gov

43.280.020 Grant program—Funding. (1) The department of commerce is authorized to distribute funds that have been allocated to the grant program that it administers for serving victims of sexual assault.

(2) Activities that can be funded through this grant program are limited to those that:

(a) Provide effective services to victims of sexual assault;

(b) Increase access to and availability of services for victims of sexual assault, particularly if from underserved populations; and

(c) Create or build on efforts by existing community programs, coordinate those efforts, or develop cooperative efforts or other initiatives to make the most effective use of resources to provide treatment services to these victims.

(3) Funding for core, specialized, and underserved populations services, as defined in RCW 70.125.030, must be distributed through a funding formula to those applicants that emphasize providing stable, victim-centered sexual assault services and possess the qualifications to provide those services.

(4) The department of commerce shall ensure that grant recipients assist victims to utilize private insurance and crime victims' compensation benefits first before grant funds are used for therapy services. [2012 c 29 § 3; 1996 c 123 § 3; 1995 c 399 § 113; 1990 c 3 § 1203.]

Additional notes found at www.leg.wa.gov

43.280.040 Organizations eligible. Local governments, nonprofit community groups, and nonprofit treatment providers including organizations which provide services, such as emergency housing, counseling, and crisis interven-

tion shall, among others, be eligible for grants under the program established in RCW 43.280.020. [1990 c 3 § 1205.]

43.280.050 Applications—Minimum requirements.

(1) At a minimum, grant applications for specialized and underserved services must include the following:

(a) The geographic area from which the victims to be served are expected to come;

(b) A description of the extent and effect of the needs of these victims within the relevant geographic area;

(c) A proposed budget and an explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;

(d) An explanation of what community organizations were involved in the community coordination that resulted in the development of the proposal; and

(e) Documentation of the applicant's capacity to provide specialized services and services for underserved populations, as defined in this chapter, and a description of how the applicant intends to comply with service standards and data collection as established by the department.

(2) At a minimum, grant applications for core services must include the following:

(a) The geographic area from which the victims to be served are expected to come;

(b) Assurance of the applicant's compliance with service standards, data collection, and management standards established by the department; and

(c) Documentation of the applicant's capacity to provide core services, as defined in this chapter. [2012 c 29 § 4; 1996 c 123 § 4; 1990 c 3 § 1206.]

Additional notes found at www.leg.wa.gov

43.280.060 Awarding of grants. (1) Subject to funds appropriated by the legislature, the department of commerce shall make awards under the grant program established by RCW 43.280.020.

(2) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding. [2012 c 29 § 5; 1996 c 123 § 5; 1995 c 399 § 114; 1990 c 3 § 1207.]

Additional notes found at www.leg.wa.gov

43.280.070 Gifts, grants, and endowments. The department of commerce may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [2012 c 29 § 6; 1995 c 399 § 115; 1990 c 3 § 1208.]

43.280.080 Office of crime victims advocacy. The office of crime victims advocacy is established in the department of commerce. The office shall assist communities in planning and implementing services for crime victims, advocate on behalf of crime victims in obtaining needed services and resources, and advise local and state governments on

practices, policies, and priorities that impact crime victims. In addition, the office shall administer grant programs for services to victims of crime and prevention activities as authorized by state or federal legislation, budget, or executive order. The department shall seek, receive, and make use of any funds which may be available from federal or other sources to augment state funds appropriated for the purpose of this section, and shall make every effort to qualify for federal funding. [2012 c 29 § 7; 1995 c 241 § 1.]

Office designated as the single point of contact in state government regarding the trafficking of persons: RCW 7.68.370.

43.280.090 Office of crime victims advocacy—Ad hoc advisory committees. The director of the department of commerce may establish ad hoc advisory committees, as necessary, to obtain advice and guidance regarding the office of crime victims advocacy program. [2012 c 29 § 8; 1995 c 269 § 2102.]

Additional notes found at www.leg.wa.gov

43.280.091 Statewide coordinating committee on sex trafficking. (1) The statewide coordinating committee on sex trafficking is established to address the issues of sex trafficking, to examine the practices of local and regional entities involved in addressing sex trafficking, and to develop a statewide plan to address sex trafficking.

(2) The committee is administered by the department of commerce and consists of the following members:

(a) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(b) A representative of the Washington attorney general's office;

(c) The president or corporate executive officer of the center for children and youth justice or his or her designee;

(d) The secretary of the children's administration or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

(f) The superintendent of public instruction or his or her designee;

(g) A representative of the administrative office of the courts appointed by the administrative office of the courts;

(h) The executive director of the Washington association of sheriffs and police chiefs or his or her designee;

(i) The executive director of the Washington state criminal justice training commission or his or her designee;

(j) Representatives of community advocacy groups that work to address the issues of human trafficking, to be appointed by the department of commerce's office of crime victims advocacy;

(k) A representative of the Washington association of prosecuting attorneys appointed by the association;

(l) Representatives of community service providers that serve victims of human trafficking, to be appointed by the department of commerce's office of crime victims advocacy;

(m) The executive director of Washington engage or his or her designee;

(n) A representative from shared hope international or his or her designee;

(o) The executive director of the Washington coalition of crime victim advocates or his or her designee;

(p) The executive director of the Washington coalition of sexual assault programs or his or her designee;

(q) The executive director of the Washington state coalition against domestic violence or his or her designee;

(r) The executive director of the Washington association of cities or his or her designee;

(s) The executive director of the Washington association of counties or his or her designee; and

(t) The director or a representative from the crime victims compensation program.

(3) The duties of the committee include, but are not limited to:

(a) Gathering and assessing service practices from diverse sources regarding service demand and delivery;

(b) Analyzing data regarding the implementation of sex trafficking legislation passed in recent years by the legislature, including reports submitted to the department of commerce pursuant to RCW 9.68A.105, 9A.88.120, and 9A.88.140, and assessing the efficacy of such legislation in addressing sex trafficking, as well as any obstacles to the impact of legislation on the commercial sex trade;

(c) Receiving and reviewing reports, recommendations, and statewide protocols as implemented in the pilot sites selected by the center for children and youth justice regarding commercially sexually exploited youth submitted to the committee by organizations that coordinate local community response practices and regional entities concerned with commercially sexually exploited youth; and

(d) Gathering and reviewing existing data, research, and literature to help shape a plan of action to address human trafficking in Washington to include:

(i) Strategies for Washington to undertake to end sex trafficking; and

(ii) Necessary data collection improvements.

(4) The committee shall meet twice and, by December 2014, produce a report on its activities, together with a statewide plan to address sex trafficking in Washington, to the governor's office and the legislature.

(5) All expenses of the committee shall come from the prostitution prevention and intervention account created in RCW 43.63A.740.

(6) The members of the committee shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, within available resources.

(7) The committee expires June 30, 2015. [2013 c 121 § 2.]

Intent—Finding—2013 c 121: "The legislature recognizes there are many state agencies and private organizations that might be called on to provide services to victims of sex trafficking. Victims of human trafficking are often in need of services such as emergency medical attention, food and shelter, vocational and English language training, mental health counseling, and legal support. The state intends to improve the response of state, local, and private entities to incidents of trafficking of humans. Victims would be better served if there is an established, coordinated system of identifying the needs of sex trafficking victims, training of service delivery agencies and staff, timely and appropriate delivery of services, and better investigations and prosecutions of trafficking.

Leadership in providing services to victims of sex trafficking also extends beyond government efforts and is grounded in the work of highly dedicated individuals and community-based groups. Without these efforts

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the struggle against human trafficking will be very difficult to win. The legislature, therefore, finds that such efforts merit regular public recognition and appreciation. Such recognition and appreciation will encourage the efforts of all persons to end sex trafficking, and provide the public with information and education about the necessity of its involvement in this struggle." [2013 c 121 § 1.]

43.280.095 Statewide training on Washington's human trafficking laws—Training entity—Report.

(1) The office of crime victims advocacy shall establish a statewide training program on Washington's human trafficking laws for criminal justice personnel.

(2) The training shall be provided where possible by an entity that has experience in developing coalitions, training, programs, and policy on human trafficking in Washington.

(3) The entity will provide or coordinate training for law enforcement personnel, prosecutors, and court personnel covering Washington's state antitrafficking laws, the investigation of sex trafficking cases, and the adjudication of sex trafficking cases. The training shall encourage interdisciplinary coordination among criminal justice personnel, build cultural competency, and develop understanding of diverse victim populations including children, youth, and adults.

(4) The office shall provide a biennial report to the appropriate policy committees of the legislature on the statewide training program, with a focus on the effectiveness of the training. [2015 c 101 § 2.]

Finding—2015 c 101: "The legislature finds that in order to reduce instances of human trafficking in our state there needs to be a cohesive and concerted statewide training program provided to those in the law enforcement and legal community. This training is intended to help promote the use of existing laws to initiate sustainable and viable investigations, prosecutions, and adjudications in all jurisdictions across the state." [2015 c 101 § 1.]

43.280.100 Revenue collection under RCW 9.68A.105, 9A.88.120, or 9A.88.140—Expenditure of revenue—Conditions—Report.

(1) The department of commerce shall prepare and submit an annual report to the legislature on the amount of revenue collected by local jurisdictions under RCW 9.68A.105, 9A.88.120, or 9A.88.140 and the expenditure of that revenue.

(2) Any funds remitted to the department of commerce pursuant to RCW 9.68A.105, 9A.88.120, or 9A.88.140 shall be spent on the fulfillment of the duties described in subsection (1) of this section. Any remaining funds may be spent on the administration of grants for services for victims of the commercial sex trade, consistent with this chapter. [2013 c 121 § 7.]

Intent—Finding—2013 c 121: See note following RCW 43.280.091.

43.280.110 Public restrooms—Model notice on human trafficking—Voluntary posting—Report to legislature.

(1) Every establishment that maintains restrooms for use by the public may voluntarily, upon availability of the model notice as described in subsection (2) of this section, post a notice that complies with the requirements of this section in a conspicuous place within all restrooms of the establishment in clear view of the public and employees. The office of crime victims advocacy may work with businesses and other establishments and with human trafficking victim advocates to adopt policies for the placement of such notices.

(2)(a) The model notice that may be voluntarily posted pursuant to subsection (1) of this section may be in a variety

of languages and include toll-free telephone numbers a person may call for assistance, including the number for the national human trafficking resource center and the number for the Washington state office of crime victims advocacy.

(b) The office of crime victims advocacy shall review and approve the initial form and content of the model notice to ensure the notice is appropriate for public display and likely to be an effective communication to reach human trafficking victims. The office of crime victims advocacy shall review the model notice on a yearly basis to ensure the information provided remains accurate.

(3) The cost of production, printing, and posting of the model notices shall be paid by a participating nonprofit at no cost to the state.

(4) The office of crime victims advocacy must provide a report to the appropriate committees of the legislature no later than December 31, 2016, regarding the voluntary participation in this effort. [2015 c 273 § 5.]

Effective date—2015 c 273: See note following RCW 7.68.370.

Human trafficking informational posters at rest areas: RCW 47.38.080.

Chapter 43.290 RCW

OFFICE OF INTERNATIONAL RELATIONS AND PROTOCOL

Sections

- 43.290.005 Finding—Purpose.
- 43.290.010 Office created.
- 43.290.020 Authority of office.
- 43.290.900 Effective date—1991 c 24.

43.290.005 Finding—Purpose. The legislature finds that it is in the public interest to create an office of international relations and protocol in order to: Make international relations and protocol a broad-based, focused, and functional part of state government; develop and promote state policies that increase international literacy and cross-cultural understanding among Washington state's citizens; expand Washington state's international cooperation role in such areas as the environment, education, science, culture, and sports; establish coordinated methods for responding to the increasing number of inquiries by foreign governments and institutions seeking cooperative activities within Washington state; provide leadership in state government on international relations and assistance to the legislature and state elected officials on international issues affecting the state; assist with multistate international efforts; and coordinate and improve communication and resource sharing among various state offices, agencies, and educational institutions with international programs.

It is the purpose of this chapter to bring these functions together in a new office under the office of the governor in order to establish a visible, coordinated, and comprehensive approach to international relations and protocol. [1991 c 24 § 1.]

Additional notes found at www.leg.wa.gov

43.290.010 Office created. The office of international relations and protocol is created under the office of the governor. The office shall serve as the state's official liaison and protocol office with foreign governments. The governor shall

appoint a director of the office of international relations and protocol, who shall serve at the pleasure of the governor. Because of the diplomatic character of this office, the director and staff will be exempt from the provisions of chapter 41.06 RCW. The director will be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The director may hire such personnel as may be necessary for the general administration of the office. To the extent permitted by law, state agencies may temporarily loan staff to the office of international relations and protocol to assist in carrying out the office's duties and responsibilities under this chapter. An arrangement to temporarily loan staff must have the approval of the staff members to be loaned and the directors of the office and the agencies involved in the loan. [1991 c 24 § 2.]

43.290.020 Authority of office. The office of international relations and protocol may:

(1) Create temporary advisory committees as necessary to deal with specific international issues. Advisory committee representation may include external organizations such as the Seattle consular corps, world affairs councils, public ports, world trade organizations, private nonprofit organizations dealing with international education or international environmental issues, organizations concerned with international understanding, businesses with experience in international relations, or other organizations deemed appropriate by the director.

(2) Accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this subsection. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [1991 c 24 § 4.]

43.290.900 Effective date—1991 c 24. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 24 § 15.]

Chapter 43.300 RCW

DEPARTMENT OF FISH AND WILDLIFE

Sections

- 43.300.005 Purpose.
- 43.300.010 Department created—Transfer of powers, duties, and functions.
- 43.300.020 Definitions.
- 43.300.040 Director's duties.
- 43.300.050 Exempt positions.
- 43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110.
- 43.300.070 Exchange of tidelands with private or public landowners.
- 43.300.080 Cost-reimbursement agreements.
- 43.300.090 Notification requirements.
- 43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79.

Marine resources committees: Chapter 36.125 RCW.

43.300.005 Purpose. Perpetuation of fish and wildlife in Washington requires clear, efficient, streamlined, scientific, management from a single state fish and wildlife agency. Such a consolidation will focus existing funds for the greatest protection of species and stocks. It will bring combined resources to bear on securing, managing, and enhancing habitats. It will simplify licensing, amplify research, increase field staff, avoid duplication, and magnify enforcement of laws and rules. It will provide all fishers, hunters, and observers of fish and wildlife with a single source of consistent policies, procedures, and access. [1993 sp.s. c 2 § 1.]

43.300.010 Department created—Transfer of powers, duties, and functions. There is hereby created a department of state government to be known as the department of fish and wildlife. The department shall be vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law. All powers, duties, and functions of the department of fisheries and the department of wildlife are transferred to the department of fish and wildlife. All references in the Revised Code of Washington to the director or the department of fisheries or the director or department of wildlife shall be construed to mean the director or department of fish and wildlife. [1993 sp.s. c 2 § 2.]

43.300.020 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of fish and wildlife.
- (2) "Director" means the director of fish and wildlife.
- (3) "Commission" means the fish and wildlife commission. [1993 sp.s. c 2 § 3.]

43.300.040 Director's duties. In addition to other powers and duties granted or transferred to the director, the commission may delegate to the director any of the powers and duties vested in the commission. [1996 c 267 § 33; 1993 sp.s. c 2 § 5.]

Intent—Effective date—1996 c 267: See notes following RCW 77.12.177.

43.300.050 Exempt positions. The director shall appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW. [1993 sp.s. c 2 § 6.]

43.300.060 Enforcement in accordance with RCW 43.05.100 and 43.05.110. Enforcement action taken after July 23, 1995, by the director or the department shall be in accordance with RCW 43.05.100 and 43.05.110. [1995 c 403 § 627.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

43.300.070 Exchange of tidelands with private or public landowners. (1) The department of fish and wildlife may exchange the tidelands and shorelands it manages with private or public landowners if the exchange is in the public interest.

(2) As used in this section, an exchange of tidelands and shorelands is in the public interest if the exchange would provide significant fish and wildlife habitat or public access to the state's waterways. [1997 c 209 § 3.]

Finding—1997 c 209: "The legislature finds that the department of fish and wildlife manages a large amount of public land and that the department may have opportunities to improve the quality of its landholdings by participating in an exchange with private landowners or other public entities. The legislature declares that it is in the public interest to allow the department to exchange land with private landowners or with public entities if the exchange would provide significant fish and wildlife habitat or public access to the state's waterways." [1997 c 209 § 1.]

Additional notes found at www.leg.wa.gov

43.300.080 Cost-reimbursement agreements. (1) The department may enter into a written cost-reimbursement agreement with a permit applicant or project proponent to recover from the applicant or proponent the reasonable costs incurred by the department in carrying out the requirements of this chapter, as well as the requirements of other relevant laws, as they relate to permit coordination, environmental review, application review, technical studies, and permit processing.

(2) The cost-reimbursement agreement shall identify the tasks and costs for work to be conducted under the agreement. The agreement must include a schedule that states:

- (a) The estimated number of weeks for initial review of the permit application;
- (b) The estimated number of revision cycles;
- (c) The estimated number of weeks for review of subsequent revision submittals;
- (d) The estimated number of billable hours of employee time;
- (e) The rate per hour; and
- (f) A date for revision of the agreement if necessary.

(3) The written cost-reimbursement agreement shall be negotiated with the permit applicant or project proponent. Under the provisions of a cost-reimbursement agreement, funds from the applicant shall be used by the department to contract with an independent consultant to carry out the work covered by the cost-reimbursement agreement. The department may also use funds provided under a cost-reimbursement agreement to hire temporary employees, to assign current staff to review the work of the consultant, to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable, and to recover reasonable and necessary direct and indirect costs that arise from processing the permit. The department shall, in developing the agreement, ensure that final decisions that involve policy matters are made by the agency and not by the consultant. The department shall make an estimate of the number of permanent staff hours to process the permits, and shall contract with consultants or hire temporary employees to replace the time and functions committed by these permanent staff to the project. The billing process shall provide for accurate time and cost accounting and may include a billing cycle that provides for progress payments.

(4) The cost-reimbursement agreement must not negatively impact the processing of other permit applications. In order to maintain permit processing capacity, the agency may hire outside consultants, temporary employees, or make internal administrative changes. Consultants or temporary

employees hired as part of a cost-reimbursement agreement or to maintain agency capacity are hired as agents of the state not of the permit applicant. The restrictions of chapter 42.52 RCW apply to any cost-reimbursement agreement, and to any person hired as a result of a cost-reimbursement agreement. [2009 c 97 § 11; 2007 c 94 § 13; 2003 c 70 § 4; 2000 c 251 § 5.]

Intent—Captions not law—Effective date—2000 c 251: See notes following RCW 43.21A.690.

43.300.090 Notification requirements. Actions under this chapter are subject to the notification requirements of RCW 43.17.400. [2007 c 62 § 6.]

Finding—Intent—Severability—2007 c 62: See notes following RCW 43.17.400.

43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79. Sections 1 through 6, 8 through 59, and 61 through 79, chapter 2, Laws of 1993 sp. sess. shall take effect March 1, 1994. [1994 c 6 § 4; 1993 sp.s. c 2 § 102.]

Chapter 43.310 RCW YOUTH GANGS

Sections

43.310.005	Finding.
43.310.007	Intent—Prevention and intervention pilot programs.
43.310.010	Definitions.
43.310.020	Gang risk prevention and intervention pilot programs—Request for proposals.
43.310.030	Gang risk prevention and intervention pilot programs—Scope.
43.310.040	Cultural awareness retreats.

43.310.005 Finding. The legislature finds and declares that:

(1) The number of youth who are members and associates of gangs and commit gang violence has significantly increased throughout the entire greater Puget Sound, Spokane, and other areas of the state;

(2) Youth gang violence has caused a tremendous strain on the progress of the communities impacted. The loss of life, property, and positive opportunity for growth caused by youth gang violence has reached intolerable levels. Increased youth gang activity has seriously strained the budgets of many local jurisdictions, as well as threatened the ability of the educational system to educate our youth;

(3) Among youth gang members the high school dropout rate is significantly higher than among nongang members. Since the economic future of our state depends on a highly educated and skilled workforce, this high school dropout rate threatens the economic welfare of our future workforce, as well as the future economic growth of our state;

(4) The unemployment rate among youth gang members is higher than that among the general youth population. The unusual unemployment rate, lack of education and skills, and the increased criminal activity could significantly impact our future prison population;

(5) Most youth gangs are subcultural. This implies that gangs provide the nurturing, discipline, and guidance to gang youth and potential gang youth that is generally provided by communities and other social systems. The subcultural designation means that youth gang participation and violence can be effectively reduced in Washington communities and

schools through the involvement of community, educational, criminal justice, and employment systems working in a unified manner with parents and individuals who have a first-hand knowledge of youth gangs and at-risk youth; and

(6) A strong unified effort among parents and community, educational, criminal justice, and employment systems would facilitate: (a) The learning process; (b) the control and reduction of gang violence; (c) the prevention of youth joining negative gangs; and (d) the intervention into youth gangs. [1993 c 497 § 1.]

43.310.007 Intent—Prevention and intervention pilot programs. It is the intent of the legislature to cause the development of positive prevention and intervention pilot programs for elementary and secondary age youth through cooperation between individual schools, local organizations, and government. It is also the intent of the legislature that if the prevention and intervention pilot programs are determined to be effective in reducing problems associated with youth gang violence, that other counties in the state be eligible to receive special state funding to establish similar positive prevention and intervention programs. [1993 c 497 § 2.]

43.310.010 Definitions. Unless the context otherwise requires, the following definitions shall apply throughout RCW 43.310.005 through 43.310.040 and *sections 5 and 7 through 10, chapter 497, Laws of 1993:

(1) "School" means any public school within a school district any portion of which is in a county with a population of over one hundred ninety thousand.

(2) "Community organization" means any organization recognized by a city or county as such, as well as private, nonprofit organizations registered with the secretary of state.

(3) "Gang risk prevention and intervention pilot program" means a community-based positive prevention and intervention program for gang members, potential gang members, at-risk youth, and elementary through high school-aged youth directed at all of the following:

(a) Reducing the probability of youth involvement in gang activities and consequent violence.

(b) Establishing ties, at an early age, between youth and community organizations.

(c) Committing local business and community resources to positive programming for youth.

(d) Committing state resources to assist in creating the gang risk prevention and intervention pilot programs.

(4) "Cultural awareness retreat" means a program that temporarily relocates at-risk youth or gang members and their parents from their usual social environment to a different social environment, with the specific purpose of having them performing activities which will enhance or increase their positive behavior and potential life successes. [1993 c 497 § 3.]

*Reviser's note: Sections 5 and 7 through 10, chapter 497, Laws of 1993 were vetoed.

43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals. (1) The *department of community, trade, and economic development may recommend existing programs or contract with either school districts or community organizations, or both, through a

request for proposal process for the development, administration, and implementation in the county of community-based gang risk prevention and intervention pilot programs.

(2) Proposals by the school district for gang risk prevention and intervention pilot program grant funding shall begin with school years no sooner than the 1994-95 session, and last for a duration of two years.

(3) The school district or community organization proposal shall include:

(a) A description of the program goals, activities, and curriculum. The description of the program goals shall include a list of measurable objectives for the purpose of evaluation by the *department of community, trade, and economic development. To the extent possible, proposals shall contain empirical data on current problems, such as dropout rates and occurrences of violence on and off campus by school-age individuals.

(b) A description of the individual school or schools and the geographic area to be affected by the program.

(c) A demonstration of broad-based support for the program from business and community organizations.

(d) A clear description of the experience, expertise, and other qualifications of the community organizations to conduct an effective prevention and intervention program in cooperation with a school or a group of schools.

(e) A proposed budget for expenditure of the grant.

(4) Grants awarded under this section may not be used for the administrative costs of the school district or the individual school. [1995 c 399 § 116; 1993 c 497 § 4.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.310.030 Gang risk prevention and intervention pilot programs—Scope. Gang risk prevention and intervention pilot programs shall include, but are not limited to:

(1) Counseling for targeted at-risk students, parents, and families, individually and collectively.

(2) Exposure to positive sports and cultural activities, promoting affiliations between youth and the local community.

(3) Job training, which may include apprentice programs in coordination with local businesses, job skills development at the school, or information about vocational opportunities in the community.

(4) Positive interaction with local law enforcement personnel.

(5) The use of local organizations to provide job search training skills.

(6) Cultural awareness retreats.

(7) The use of specified state resources, as requested.

(8) Full service schools under *section 9 of this act.

(9) Community service such as volunteerism and citizenship. [1993 c 497 § 6.]

***Reviser's note:** Section 9, chapter 497, Laws of 1993 was vetoed.

43.310.040 Cultural awareness retreats. Cultural awareness retreats shall include but are not limited to the following programs:

(1) To develop positive attitudes and self-esteem.

(2) To develop youth decision-making ability.

(3) To assist with career development and educational development.

(4) To help develop respect for the community, and ethnic origin. [1993 c 497 § 11.]

Chapter 43.320 RCW

DEPARTMENT OF FINANCIAL INSTITUTIONS

Sections

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43.320.900	Effective date—1993 c 472.

43.320.005 Finding. The legislature finds that, given the overlap of powers and products in the companies regulated, the consolidation of the agencies regulating financial institutions and securities into one department will better serve the public interest through more effective use of staff expertise. Therefore, for the convenience of administration and the centralization of control and the more effective use of state resources and expertise, the state desires to combine the regulation of financial institutions and securities into one department. [1993 c 472 § 1.]

43.320.007 Regulatory reform—Findings—Construction—1994 c 256. (1) The legislature finds that the financial services industry is experiencing a period of rapid change with the development and delivery of new products and services and advances in technology.

(2) The legislature further finds it in the public interest to strengthen the regulation, supervision, and examination of business entities furnishing financial services to the people of this state and that this can be accomplished by streamlining and focusing regulation to reduce costs, increase effective-

ness, and foster efficiency by eliminating requirements that are not necessary for the protection of the public.

(3) The provisions of chapter 256, Laws of 1994 should not be construed to limit the ability of the director of financial institutions to implement prudent regulation, prevent unsafe, unsound, and fraudulent practices, and undertake necessary enforcement actions to protect the public and promote the public interest. [1994 c 256 § 1.]

43.320.010 Department created. A state department of financial institutions, headed by the director of financial institutions, is created. The department shall be organized and operated in a manner that to the fullest extent permissible under applicable law protects the public interest, protects the safety and soundness of depository institutions and entities under the jurisdiction of the department, ensures access to the regulatory process for all concerned parties, and protects the interests of investors. The department of financial institutions shall be structured to reflect the unique differences in the types of institutions and areas it regulates. [1993 c 472 § 2.]

43.320.011 Department of general administration and department of licensing powers and duties transferred. (1) All powers, duties, and functions of the *department of general administration under Titles **30, 31, 32, 33, and 43 RCW and any other title pertaining to duties relating to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, and other similar institutions are transferred to the department of financial institutions. All references to the *director of general administration, supervisor of banking, or the supervisor of savings and loan associations in the Revised Code of Washington are construed to mean the director of the department of financial institutions when referring to the functions transferred in this section. All references to the *department of general administration in the Revised Code of Washington are construed to mean the department of financial institutions when referring to the functions transferred in this subsection.

(2) All powers, duties, and functions of the department of licensing under chapters 18.44, 19.100, 19.110, 21.20, 21.30, and 48.18A RCW and any other statute pertaining to the regulation under the chapters listed in this subsection of escrow agents, securities, franchises, business opportunities, commodities, and any other speculative investments are transferred to the department of financial institutions. All references to the director or department of licensing in the Revised Code of Washington are construed to mean the director or department of financial institutions when referring to the functions transferred in this subsection. [1995 c 238 § 6; 1993 c 472 § 6.]

Reviser's note: *(1) The "department of general administration" and the "director of general administration" were renamed the "department of enterprise services" and the "director of enterprise services" by 2011 1st sp.s. c 43.

** (2) Title 30 RCW was recodified and/or repealed pursuant to 2014 c 37, effective January 5, 2015.

Additional notes found at www.leg.wa.gov

43.320.017 Collective bargaining agreements. Nothing contained in RCW 43.320.011 may be construed to alter

any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the expiration date of the current agreement or until the bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [2017 3rd sp.s. c 25 § 3; 1993 c 472 § 13.]

43.320.020 Director—Salary—Powers and duties—Examiners, assistants, personnel. The director of financial institutions shall be appointed by the governor and shall exercise all powers and perform all of the duties and functions transferred under RCW 43.320.011, and such other powers and duties as may be authorized by law. The director may deputize, appoint, and employ examiners and other such assistants and personnel as may be necessary to carry on the work of the department. The director of financial institutions shall receive a salary in an amount fixed by the governor. [1993 c 472 § 3.]

43.320.030 Director—Qualifications—Conflicts of interest. A person is not eligible for appointment as director of financial institutions unless he or she is, and for the last two years before his or her appointment has been, a citizen of the United States. A person is not eligible for appointment as director of financial institutions if he or she has an interest at the time of appointment, as a director, trustee, officer, or stockholder in any bank, savings bank, savings and loan association, credit union, consumer loan company, trust company, securities broker-dealer or investment advisor, or other institution regulated by the department. [1993 c 472 § 4.]

43.320.040 Director's authority to adopt rules. The director of financial institutions may adopt any rules, under chapter 34.05 RCW, necessary to implement the powers and duties of the director under this chapter. [1993 c 472 § 5.]

43.320.045 Director's duties—Dissemination of information. The director of financial institutions or the director's designee shall:

(1) Disseminate information to the public concerning the laws regulating financial institutions of this state; and

(2) Provide assistance to members of the public in obtaining information about financial products. [2008 c 3 § 1.]

Additional notes found at www.leg.wa.gov

43.320.050 Assistant directors—Divisions—"FDIC" defined. The director of financial institutions may appoint assistant directors for each of the divisions of the department and delegate to them the power to perform any act or duty conferred upon the director. The director is responsible for the official acts of these assistant directors.

The department of financial institutions shall consist of at least the following four divisions: The division of FDIC insured institutions, with regulatory authority over all state-chartered FDIC insured institutions; the division of credit unions, with regulatory authority over all state-chartered credit unions; the division of consumer affairs, with regulatory authority over state-licensed nondepository lending institutions and other regulated entities; and the division of securities, with regulatory authority over securities, fran-

chises, business opportunities, and commodities. The director of financial institutions is granted broad administrative authority to add additional responsibilities to these divisions as necessary and consistent with applicable law.

For purposes of this section, "FDIC" means the Federal Deposit Insurance Corporation. [1993 c 472 § 8.]

43.320.060 Deputization of assistant to exercise powers and duties of director. The director of financial institutions shall appoint, deputize, and employ examiners and such other assistants and personnel as may be necessary to carry on the work of the department of financial institutions.

In the event of the director's absence the director shall have the power to deputize one of the assistants of the director to exercise all the powers and perform all the duties prescribed by law with respect to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, franchises, business opportunities, commodities, escrow agents, and other similar institutions or areas that are performed by the director so long as the director is absent: PROVIDED, That such deputized assistant shall not have the power to approve or disapprove new charters, licenses, branches, and satellite facilities, unless such action has received the prior written approval of the director. Any person so deputized shall possess the same qualifications as those set out in this section for the director. [1995 c 238 § 8; 1993 c 472 § 20; 1977 ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786-11. Formerly RCW 43.19.020.]

Additional notes found at www.leg.wa.gov

43.320.070 Oath of examiners—Liability for acts performed in good faith. Before entering office each examiner shall take and subscribe an oath faithfully to discharge the duties of the office.

Oaths shall be filed with the secretary of state.

Neither the director of financial institutions, any deputized assistant of the director, nor any examiner or employee shall be personally liable for any act done in good faith in the performance of his or her duties. [1993 c 472 § 21; 1977 ex.s. c 270 § 8; 1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210. Formerly RCW 43.19.030.]

Powers and duties of director of enterprise services as to official bonds: RCW 43.19.784.

43.320.080 Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds. The director of financial institutions shall maintain an office at the state capitol, but may with the consent of the governor also maintain branch offices at other convenient business centers in this state. The director shall keep books of record of all moneys received or disbursed by the director into or from the financial services regulation fund, and any other accounts maintained by the department of financial institutions. [2001 c 177 § 1; 1993 c 472 § 22; 1965 c 8 § 43.19.050. Prior: 1917 c 80 § 4; RRS § 3211. Formerly RCW 43.19.050.]

(2022 Ed.)

Additional notes found at www.leg.wa.gov

43.320.090 Borrowing money by director, deputy, or employee—Penalty. (1) It shall be unlawful for the director of financial institutions, any deputized assistant of the director, or any employee of the department of financial institutions to borrow money from any bank, consumer loan company, credit union, foreign bank branch, savings bank, savings and loan association, or trust company or department, securities broker-dealer or investment advisor, or similar lending institution under the department's direct jurisdiction unless the extension of credit:

(a) Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the financial institution with other persons that are not employed by either the department or the institution; and

(b) Does not involve more than the normal risk of repayment or present other unfavorable features.

(2) Every person who knowingly violates this section shall forfeit his or her office or employment and be guilty of a gross misdemeanor. [2019 c 147 § 4; 1993 c 472 § 23; 1965 c 8 § 43.19.080. Prior: 1917 c 80 § 11; RRS § 3218. Formerly RCW 43.19.080.]

43.320.100 Annual report—Contents. The director of financial institutions shall file in his or her office all reports required to be made to the director, prepare and furnish to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments blank forms for such reports as are required of them, and, beginning in the 2009-2011 fiscal biennium and each biennium thereafter, make a report to the governor showing:

(1) A summary of the conditions of the banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments at the date of their last report; and

(2) A list of those organized or closed during the year.

The director may publish such other statements, reports, and pamphlets as he or she deems advisable. [2009 c 518 § 11; 1993 c 472 § 24; 1977 c 75 § 43; 1965 c 8 § 43.19.090. Prior: 1917 c 80 § 13; RRS § 3220. Formerly RCW 43.19.090.]

43.320.110 Financial services regulation fund. (1) There is created in the custody of the state treasurer a local fund known as the "financial services regulation fund" which shall consist of all moneys received by the divisions of the department of financial institutions, except as provided in subsection (2) of this section.

(2) The division of securities shall deposit thirteen percent of all moneys received, except as provided in RCW 43.320.115 and subsection (3) of this section, and which shall be used for the purchase of supplies and necessary equipment; the payment of salaries, wages, and utilities; the establishment of reserves; and other incidental costs required for the proper regulation of individuals and entities subject to regulation by the department.

(3) The division of securities shall deposit one hundred percent of all moneys received that are attributable to increases in fees implemented by rule pursuant to RCW 21.20.340(15).

(4) Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(5) During the 2017-2019 fiscal biennium, the legislature may transfer from the financial services regulation fund to the state general fund such amounts as reflect the excess fund balance of the fund. During the 2017-2019 and 2021-2023 fiscal biennia, moneys from the financial services regulation fund may be appropriated for the family prosperity account program at the department of commerce and for the operations of the department of revenue.

(6)(a) Beginning in the 2020-2021 fiscal year, the state treasurer shall annually transfer from the fund to the student loan advocate account created in RCW 28B.77.008, the greater of one hundred seventy-five thousand dollars or twenty percent of the annual assessment derived from student education loan servicing.

(b) The department must provide information to the state treasurer regarding the amount of the annual assessment derived from student education loan servicing.

(7) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018.

(8) During the 2019-2021 fiscal biennium, moneys in the financial services regulation fund may be appropriated for the operations of the department of revenue. It is the intent of the legislature to continue this policy in subsequent biennia.

(9) During the 2019-2021 and 2021-2023 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the financial services regulation fund to the general fund. [2021 c 334 § 982; 2019 c 415 § 973. Prior: 2018 c 185 § 2; 2018 c 62 § 4; 2017 3rd sp.s. c 1 § 976; 2015 3rd sp.s. c 4 § 960; 2011 2nd sp.s. c 9 § 909; 2010 1st sp.s. c 37 § 934; 2005 c 518 § 932; prior: 2003 1st sp.s. c 25 § 921; 2003 c 288 § 1; 2002 c 371 § 912; 2001 2nd sp.s. c 7 § 911; 2001 c 177 § 2; 1995 c 238 § 9; 1993 c 472 § 25; 1981 c 241 § 1. Formerly RCW 43.19.095.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Application—Short title—2018 c 62: See RCW 31.04.905 and 31.04.906.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Additional notes found at www.leg.wa.gov

43.320.115 Securities prosecution fund. (1) The securities prosecution fund is created in the custody of the state treasurer and shall consist of all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and

21.20.390(6). No appropriation is required to permit expenditures from this fund, but the account is subject to allotment procedures under chapter 43.88 RCW.

(2) Expenditures from this fund may be used solely for administering the fund and for payment of costs, expenses, and charges incurred in the preparation, initiation, and prosecution of criminal charges for violations of chapters 21.20, 21.30, 19.100, and 19.110 RCW. Only the director or the director's designee may authorize expenditures from the fund.

(3) Applications for fund expenditures must be submitted by the attorney general or the proper prosecuting attorney to the director. The application must clearly identify the alleged criminal violations identified in subsection (2) of this section and indicate the purpose for which the funds will be used. The application must also certify that any funds received will be expended only for the purpose requested. Funding requests must be approved by the director prior to any expenditure being incurred by the requesting attorney general or prosecuting attorney. At the conclusion of the prosecution, the attorney general or prosecuting attorney shall provide the director with an accounting of fund expenditures, a summary of the case, and certify his or her compliance with any rules adopted by the director relating to the administration of the fund.

(4) If the balance of the securities prosecution fund reaches three hundred fifty thousand dollars, all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited in the financial services regulation fund until such time as the balance in the fund falls below three hundred fifty thousand dollars, at which time the fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited to the securities prosecution fund until balance in the fund once again reaches three hundred fifty thousand dollars. [2003 c 288 § 2.]

43.320.140 Mortgage lending fraud prosecution account—Created. (Expires June 30, 2027.) (1) The mortgage lending fraud prosecution account is created in the custody of the state treasurer. All receipts from the surcharge imposed in RCW 36.22.181, except those retained by the county auditor for administration, must be deposited into the account. Except as otherwise provided in this section, expenditures from the account may be used only for criminal prosecution of fraudulent activities related to mortgage lending fraud crimes. Only the director of the department of financial institutions or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires June 30, 2027. [2021 c 31 § 2; 2016 c 7 § 1; 2011 c 129 § 1; 2006 c 21 § 2; 2003 c 289 § 2.]

Effective date—2021 c 31: See note following RCW 36.22.181.

Additional notes found at www.leg.wa.gov

43.320.150 Financial literacy and education programs. The director of financial institutions or the director's designee may establish, administer, and implement financial literacy and education programs, including but not limited to:

(1) Education and outreach programs that assist Washington citizens of all ages in understanding saving, investing, and budgeting, and other skills necessary to obtain individual financial independence, fiscal responsibility, and financial management skills.

(2) Counseling, marketing, and outreach programs regarding residential mortgage transactions, nontraditional or subprime mortgages, predatory lending practices, or other financial products or practices in the marketplace relating to homeownership.

The department may deliver the programs in subsections (1) and (2) of this section using grants, contracts, or interagency agreements with state and local governments and other nongovernmental organizations as necessary. The department may coordinate these programs with ongoing efforts by other public and private sector entities to maximize the programs' effectiveness. [2008 c 3 § 2.]

Additional notes found at www.leg.wa.gov

43.320.1501 Financial literacy—Report to governor and legislature. The director or his or her designee shall convene an interagency work group to identify current state-funded efforts to support financial literacy, assess whether there are opportunities to create a centralized location of information regarding these existing state efforts, and to identify whether there are opportunities for expanding partnerships with other community entities also providing financial literacy services. A report of the findings and recommendations of this interagency work group shall be due to the governor and the appropriate committees of the legislature by December 1, 2008. [2008 c 3 § 3.]

Additional notes found at www.leg.wa.gov

43.320.180 Review of retirement account products proposed for inclusion in the Washington small business retirement marketplace. The department of financial institutions, annually, or upon request of the department of commerce, must review individual retirement account products proposed for inclusion in the Washington small business retirement marketplace to confirm that the products comply with the requirements of RCW 43.330.735, except for those requirements that pertain to federal laws and regulations. [2015 c 296 § 10.]

Conflict with federal requirements—2015 c 296: See RCW 43.330.912.

43.320.190 Confidential information—Public records act exemption. (1) Information provided to the department of financial institutions by an agency of another state or the federal government, or regulatory association comprised of members of financial regulatory agencies, to the extent such information is confidential or exempt from disclosure under specific federal law or the specific laws of another state, shall be exempt from disclosure under chapter 42.56 RCW.

(2) The information in subsection (1) of this section is not exempt when included in records prepared by the department that represent agency action, as defined in RCW 34.05.010.

(3) For the purpose of regulating financial institutions, the director of financial institutions or the director's designee may enter into agreements governing the sharing, receiving, and use of documents, materials, or other information consistent with this section and chapter 42.56 RCW. [2022 c 8 § 1.]

43.320.500 Financial institution service providers—Definitions. The definitions in this section apply throughout this section and RCW 43.320.510 through 43.320.560 unless the context clearly requires otherwise.

(1) "Covered financial institution" means a bank as defined in section 3 of the federal deposit insurance act, 12 U.S.C. Sec. 1813(a), and includes those financial institutions supervised and regulated by the director under Titles 30A, 32, and 33 RCW, including any subsidiary or affiliate of any applicable covered financial institution under the bank service company act, 12 U.S.C. Sec. 1861(b)(2).

(2) "Covered service" means any service subject to examination under the bank service company act, 12 U.S.C. Sec. 1867 (c) as of June 9, 2022, or such subsequent date as may be provided by the department by rule consistent with the purposes of chapter 49, Laws of 2022.

(3) "Department" means the state department of financial institutions.

(4) "Director" means the director of financial institutions, or the director's duly authorized representative.

(5) "Federal agency" includes the federal deposit insurance corporation, federal reserve, national credit union administration, consumer financial protection bureau, and office of the comptroller of the currency, or any successor federal agencies.

(6) "Service provider" means any person, company, corporation, or other legal entity that provides a covered service to a covered financial institution; the term service provider also includes "service companies" as defined under the bank service company act, 12 U.S.C. Sec. 1861(b)(2). [2022 c 49 § 1.]

43.320.510 Financial institution service providers—Examination. (1) A service provider that provides a covered service, by contract or otherwise, to a covered financial institution, is subject to examination by the director to the same extent as if the covered service was performed by the covered financial institution itself.

(2) The director may, in the director's discretion, examine any service provider under RCW 43.320.500 through 43.320.560; provided that prior to any state-only examination, the director must find that:

(a) The information sought cannot be otherwise accessed or verified by the records of the covered financial institution without direct examination of the records of the service provider;

(b) The service provider manages an application, process, or system for the benefit of the covered financial institution, the integrity of which cannot be evaluated without direct examination; or

(c) An act or omission of the service provider sought to be examined has resulted in a significant heightened risk, is committing an unsafe and unsound practice, operating in an

unsafe or unsound manner, or is otherwise violating a provision of Title 30A, 32, or 33 RCW, or other applicable law. [2022 c 49 § 2.]

43.320.520 Financial institution service providers—Reports of examination from other agencies. The director may, in the director's discretion, accept service provider reports of examination, which are made by any other state or federal agency, in lieu of any examination authorized under the laws of this state. [2022 c 49 § 3.]

43.320.530 Financial institution service providers—Confidentiality of reports of examination. A service provider report of examination written or obtained by the director is confidential and subject to the applicable state and federal bank confidentiality laws including, but not limited to, RCW 30A.04.075, 31.12.565, 32.04.220, and 33.04.110, provided that:

(1) For any joint service provider report of examination performed by the director with any other state or federal agency, a copy may be furnished to:

(a) The examined service provider or the covered financial institutions serviced by the service provider in accordance with the bank service company act, 12 U.S.C. chapter 18, and the attendant rules, regulations, policies, and guidance applicable to service provider examinations;

(b) Outside parties with written consent of all state and federal agencies that participated in the examination; or

(c) Outside parties if compelled in response to a valid legal process; however, the department must provide a written notice of disclosure and reasonable opportunity to object to all state and federal agencies that participated in the examination.

(2) For any state-only service provider report of examination performed solely by the director, a copy may be furnished to:

(a) The examined service provider;

(b) Any Washington state-chartered or Washington state-licensed financial institution serviced by the service provider; or

(c) Outside parties if compelled in response to a valid legal process with reasonable opportunity for the department to object. [2022 c 49 § 4.]

43.320.540 Financial institution service providers—Examination and information sharing agreements. The director may enter into examination and information sharing agreements with any state or federal agency that has joint or concurrent jurisdiction over a service provider. [2022 c 49 § 5.]

43.320.550 Financial institution service providers—Enforcement. (1) The director may take enforcement actions against a service provider for planning, attempting, or currently violating any state or federal law, or engaging in any unsafe or unsound practice, to the same extent, and as if, the covered service was performed by the covered financial institution itself, pursuant to Titles 30A, 32, and 33 RCW.

(2) The director may enter into joint examinations or joint enforcement actions with other state or federal agencies

having joint or concurrent jurisdiction over a service provider. [2022 c 49 § 6.]

43.320.560 Financial institution service providers—Power of director—Rule making. The director has the power, and broad administrative discretion, to administer and interpret RCW 43.320.500 through 43.320.550. The director may adopt all rules necessary to administer RCW 43.320.500 through 43.320.550. [2022 c 49 § 7.]

43.320.900 Effective date—1993 c 472. This act takes effect October 1, 1993. [1993 c 472 § 31.]

Chapter 43.325 RCW ENERGY FREEDOM PROGRAM

Sections

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43.325.902	Servicing and management of projects in effect before July 1, 2007.
43.325.904	Effective date—2007 c 348 §§ 205 and 301-307.

43.325.005 Findings—2007 c 348. (1) The legislature finds that excessive dependence on fossil fuels jeopardizes Washington's economic security, environmental integrity, and public health. Accelerated development and use of clean fuels and clean vehicle technologies will reduce the drain on Washington's economy from importing fossil fuels. As fossil fuel prices rise, clean fuels and vehicles can save consumers money while promoting the development of a major, sustainable industry that provides good jobs and a new source of rural prosperity. In addition, clean fuels and vehicles protect public health by reducing toxic air and climate change emissions.

(2) The legislature also finds that climate change is expected to have significant impacts in the Pacific Northwest region in the near and long-term future. These impacts include: Increased temperatures, declining snowpack, more frequent heavy rainfall and flooding, receding glaciers, rising sea levels, increased risks to public health due to insect and rodent-borne diseases, declining salmon populations, and increased drought and risk of forest fires. The legislature recognizes the need at this time to continue to gather and analyze information related to climate protection. This analysis will allow prudent steps to be taken to avoid, mitigate, or respond to climate impacts and protect our communities.

(3) Finally, the legislature finds that to reduce fossil fuel dependence, build our clean energy economy, and reduce climate impacts, the state should develop policies and incentives that help businesses, consumers, and farmers gain greater access to affordable clean fuels and vehicles and to produce clean fuels in the state. These policies and incentives should include: Incentives for replacement of the most polluting diesel engines, especially in school buses; transitional incentives for development of the most promising in-state clean fuels and fuel feedstocks, including biodiesel crops, ethanol from plant waste, and liquid natural gas from landfill or wastewater treatment gases; reduced fossil fuel consump-

tion by state fleets; development of promising new technologies for displacing petroleum with electricity, such as "plug-in hybrids"; and impact analysis and emission accounting procedures that prepare Washington to respond and prosper as climate change impacts occur, and as policies and markets to reduce climate pollution are developed. [2007 c 348 § 1.]

43.325.030 Coordinator—Duties. The director of the department shall appoint a coordinator that is responsible for:

(1) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage biofuel and energy efficiency, renewable energy, and innovative energy technology markets in Washington;

(2) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of biofuels produced predominantly from recycled products or Washington feedstocks;

(3) Working with the departments of transportation and enterprise services, and other applicable state and local governmental entities and the private sector, to ensure the development of biofuel fueling stations for use by state and local governmental motor vehicle fleets, and to provide greater availability of public biofuel fueling stations for use by state and local governmental motor vehicle fleets;

(4) Coordinating with the Western Washington University alternative automobile program for opportunities to support new Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

(5) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and transportation barriers of physically bringing forest biomass to the market;

(6) Coordinating with the department of agriculture and Washington State University for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities. [2015 c 225 § 92; 2009 c 451 § 4; 2007 c 348 § 205.]

Intent—2009 c 451: "The legislature intends to modify the energy freedom program and account in order to receive federal funds and other sources of funding. Also, the legislature intends to expand the mission of the energy freedom program to accelerate energy efficiency improvements, renewable energy improvements, and deployment of innovative energy technologies. Additionally, the legislature intends to support, through the energy freedom program, research, demonstration, and commercialization of energy efficiency improvements, renewable energy improvements, and innovation energy technologies." [2009 c 451 § 1.]

Additional notes found at www.leg.wa.gov

43.325.080 Electricity and biofuel usage goals—Rules. (1) By June 1, 2010, the department shall adopt rules to define practicability and clarify how state agencies will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(1). At a minimum, the rules must address:

(a) Criteria for determining how the goal in RCW 43.19.648(1) will be met by June 1, 2015;

(b) Factors considered to determine compliance with the goal in RCW 43.19.648(1), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

(c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(1) that may include different schedules for different fuel applications or different quantities of biofuels.

(2) By June 1, 2015, the department shall adopt rules to define practicability and clarify how local government subdivisions of the state will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(2). At a minimum, the rules must address:

(a) Criteria for determining how the goal in RCW 43.19.648(2) will be met by June 1, 2018;

(b) Factors considered to determine compliance with the goal in RCW 43.19.648(2), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

(c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(2) that may include different schedules for different fuel applications or different quantities of biofuels. [2011 c 353 § 5; 2007 c 348 § 204.]

Intent—2011 c 353: See note following RCW 36.70A.130.

43.325.090 Refueling projects. If the total requested dollar amount of funds for refueling projects under *RCW 43.325.020(4) exceeds the amount available for refueling projects in the energy freedom account created in *RCW 43.325.040, the applications must be prioritized based upon the following criteria:

(1) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(2) The extent to which the project will reduce air and water pollution either directly or indirectly;

(3) The extent to which the project will establish a viable bioenergy production capacity in Washington;

(4) The extent to which the project will make biofuels more accessible to the motoring public;

(5) The benefits to Washington's agricultural producers; and

(6) The number and quality of jobs and economic benefits created by the project. [2007 c 348 § 304.]

***Reviser's note:** RCW 43.325.020 and 43.325.040 expired June 30, 2016.

43.325.100 Framework to mitigate climate change—Report. (1) The *department of community, trade, and economic development and the department of ecology shall develop a framework for the state of Washington to participate in emerging regional, national, and to the extent possible, global markets to mitigate climate change, on a multisector basis. This framework must include, but not be limited to, credible, verifiable, replicable inventory and accounting methodologies for each sector involved, along with the completion of the stakeholder process identified in executive

order number 07-02 creating the Washington state climate change challenge.

(2) The *department of community, trade, and economic development and the department of ecology shall include the forestry sector and work closely with the department of natural resources on those recommendations.

(3) The department must provide a report to the legislature by December 1, 2008. The report may be included within the report produced for executive order number 07-02. [2007 c 348 § 403.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.325.110 Vehicle electrification demonstration grant program. (1) The vehicle electrification demonstration grant program is established within the *department of community, trade, and economic development. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) The director may approve an application for a vehicle electrification demonstration project only if the director finds:

(a) The applicant is a state agency, public school district, public utility district, or a political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations or a state institution of higher education;

(b) The project partially funds the purchase of or conversion of existing vehicles to plug-in hybrid electric vehicles or battery electric vehicles for use in the applicant's fleet or operations;

(c) The project partners with an electric utility and demonstrates technologies to allow controlled vehicle charging, including the use of power electronics or wireless technologies, to regulate time-of-day and duration of charging;

(d) The project provides matching resources; and

(e) The project provides evaluation of fuel savings, greenhouse gas reductions, battery capabilities, energy management system, charge controlling technologies, and other relevant information determined on the advice of the vehicle electrification work group.

(3) The director may approve an application for a vehicle electrification demonstration project if the project, in addition to meeting the requirements of subsection (2) of this section, also demonstrates charging using on-site renewable resources or vehicle-to-grid capabilities that enable the vehicle to discharge electricity into the grid. [2007 c 348 § 408.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.325.902 Servicing and management of projects in effect before July 1, 2007. (1) Energy freedom program projects funded pursuant to *RCW 43.325.040 or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which the department of agriculture has signed loan agreements and disbursed funds prior to June 30, 2007, shall continue to be serviced by the department of agriculture.

(2) Energy freedom program projects funded pursuant to *RCW 43.325.040 or by the legislature pursuant to sections 191 and 192, chapter 371, Laws of 2006 for which moneys have been appropriated but loan agreements or disbursements have not been completed must be transferred to the department for project management on July 1, 2007, subject to the ongoing requirements of the energy freedom program. [2007 c 348 § 307.]

*Reviser's note: RCW 43.325.040 expired June 30, 2016.

43.325.904 Effective date—2007 c 348 §§ 205 and 301-307. Sections 205 and 301 through 307 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2007. [2007 c 348 § 503.]

Chapter 43.330 RCW

DEPARTMENT OF COMMERCE

(Formerly: Department of community, trade, and economic development)

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43.330.005 Findings. The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a department of commerce that fosters new partnerships for strong and sustainable communities. The mission of the department is to grow and improve jobs in Washington and facilitate innovation. To carry out its mission, the department will bring together focused efforts to: Streamline access to business assistance and economic development services by providing them through sector-based, cluster-based, and regional partners; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; increase accountability to the public, the executive branch, and the legislature; manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; and construct public infrastructure.

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in creating the department to maximize the use of local expertise and resources in the delivery of community and economic development services. [2010 c 271 § 2; 1993 c 280 § 1.]

Purpose—2010 c 271: "In 2009, the legislature changed the name of the department of community, trade, and economic development to the depart-

ment of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission were to be included in the report.

In accordance with that legislation, chapter 565, Laws of 2009, in November 2009 the department of commerce submitted a plan that establishes a mission of growing and improving jobs in the state and recognizes the need for an innovation-driven economy. The plan also outlines agency priorities, efficiencies, and program transfers that will help to advance the new mission.

The primary purpose of this act is to implement portions of the department of commerce plan by transferring certain programs from the department of commerce to other state agencies whose missions are more closely aligned with the core functions of those programs. This act also directs additional efficiencies in state government and directs development of a statewide clean energy strategy, which will better enable the department of commerce to focus on its new mission." [2010 c 271 § 1.]

Additional notes found at www.leg.wa.gov

43.330.007 Management responsibility. (1) The purpose of this chapter is to establish the broad outline of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions to more closely reflect its customers, its mission, and its priorities, and to make recommendations for changes.

(2) In order to generate greater local capacity, maximize results through partnerships and the use of intermediaries, and leverage the use of state resources, the department shall, in carrying out its business assistance and economic development functions, provide business and economic development services primarily through sector-based, cluster-based, and regionally based organizations rather than providing assistance directly to individual firms. [2010 c 271 § 3; 2009 c 565 § 1; 1993 c 280 § 2.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

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

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Family resource center" means a unified single point of entry where families, individuals, children, and youth in communities can obtain information, an assessment of needs, referral to, or direct delivery of family services in a manner that is welcoming and strength-based.

(a) A family resource center is designed to meet the needs, cultures, and interests of the communities that the family resource center serves.

(b) Family services may be delivered directly to a family at the family resource center by family resource center staff or by providers who contract with or have provider agreements with the family resource center. Any family resource center that provides family services shall comply with applicable state and federal laws and regulations regarding the delivery of such family services, unless required waivers or exemptions have been granted by the appropriate governing body.

(c) Each family resource center shall have one or more family advocates who screen and assess a family's needs and strengths. If requested by the family, the family advocate shall assist the family with setting its own goals and, together with the family, develop a written plan to pursue the family's goals in working towards a greater level of self-reliance or in attaining self-sufficiency.

(5) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(6) "Small business" has the same meaning as provided in RCW 39.26.010. [2021 c 39 § 3; 2014 c 112 § 401; 2011 c 286 § 4; 2009 c 565 § 2; 2007 c 322 § 2; 1993 c 280 § 3.]

Intent—Findings—2021 c 39: See note following RCW 74.14C.010.

Findings—Purpose—Intent—2007 c 322: "(1) The legislature finds that:

(a) Microenterprises are an important portion of Washington's economy, providing approximately twenty percent of the employment in Washington and playing a vital role in job creation.

(b) While community-based microenterprise development organizations have expanded their assistance to their microentrepreneur customers in recent years, there remains a lack of access to capital, training, and technical assistance for low-income microentrepreneurs.

(c) Support for microenterprise development offers a means to expand business and job creation in low-income communities in both rural and urban areas of the state.

(d) Local and state charitable foundation support, federal program funding, and private sector support can be leveraged by a statewide program for development of microenterprises.

(2) It is the purpose of this act to assist microenterprises in job creation by increasing the training, technical assistance, and financial resources available to microenterprises. It is the intention of the legislature to carry out this purpose by enabling the *department of community, trade, and economic development to contract with a statewide microenterprise association with the potential to provide organizational support and administer grants to local microenterprise development organizations, subject to the requirements of this act, and to leverage additional funds from sources other than moneys appropriated from the general fund." [2007 c 322 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.330.020 Department created. A department of commerce is created. The department shall be vested with all powers and duties established or transferred to it under this chapter and such other powers and duties as may be authorized by law. Unless otherwise specifically provided, the existing responsibilities and functions of the agency programs will continue to be administered in accordance with their implementing legislation. [2009 c 565 § 3; 1993 c 280 § 4.]

(2022 Ed.)

43.330.030 Director—Appointment—Salary. The executive head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1993 c 280 § 5.]

43.330.040 Director powers and duties. (1) The director shall supervise and administer the activities of the department and shall advise the governor and the legislature with respect to community and economic development matters affecting the state.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Act for the state in the initiation of or participation in any multigovernmental program relative to the purpose of this chapter;

(c) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(d) Appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(e) Prepare and submit budgets for the department for executive and legislative action;

(f) Submit recommendations for legislative actions as are deemed necessary to further the purposes of this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department; and

(i) Perform other duties as are necessary and consistent with law.

(3) When federal or other funds are received by the department, they shall be promptly transferred to the state treasurer and thereafter expended only upon the approval of the director. The department must track the amount of federal economic development funding received and disbursed along with any required state, local, or other matching requirements and annually provide the information to the economic development committees of the house of representatives and the senate.

(4) The director may request information and assistance from all other agencies, departments, and officials of the state, and may reimburse such agencies, departments, or officials if such a request imposes any additional expenses upon any such agency, department, or official.

(5) The director shall, in carrying out the responsibilities of office, consult with governmental officials, private groups, and individuals and with officials of other states. All state agencies and their officials and the officials of any political subdivision of the state shall cooperate with and give such assistance to the department, including the submission of requested information, to allow the department to carry out its purposes under this chapter.

(6) The director may establish additional advisory or coordinating groups with the legislature, within state government, with state and other governmental units, with the private sector and nonprofit entities or in specialized subject areas as may be necessary to carry out the purposes of this chapter.

(7) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [2016 sp.s. c 12 § 1; 1993 c 280 § 6.]

43.330.050 Community and economic development responsibilities. The department shall be responsible for promoting community and economic development within the state by assisting the state's communities to increase the quality of life of their citizens and their economic vitality, and by assisting the state's businesses to maintain and increase their economic competitiveness, while maintaining a healthy environment. Community and economic development efforts shall include: Efforts to increase economic opportunity; local planning to manage growth; the promotion and provision of affordable housing and housing-related services; providing public infrastructure; business and trade development; assisting firms and industrial sectors to increase their competitiveness; fostering the development of minority and women-owned businesses; facilitating technology development, transfer, and diffusion; community services and advocacy for low-income persons; and public safety efforts. The department shall have the following general functions and responsibilities:

(1) Provide advisory assistance to the governor, other state agencies, and the legislature on community and economic development matters and issues;

(2) Assist the governor in coordinating the activities of state agencies that have an impact on local government and communities;

(3) Cooperate with the legislature and the governor in the development and implementation of strategic plans for the state's community and economic development efforts;

(4) Solicit private and federal grants for economic and community development programs and administer such programs in conjunction with other programs assigned to the department by the governor or the legislature. To maximize the impact of federal funding for economic development, the department must coordinate with federal and state public research facilities to leverage other federal funding coming to the state for research, development, innovation of new technologies, and transfer of technology to the private sector to promote business development and jobs in Washington;

(5) Cooperate with and provide technical and financial assistance to local governments, businesses, and community-based organizations serving the communities of the state for the purpose of aiding and encouraging orderly, productive,

and coordinated development of the state, and, unless stipulated otherwise, give additional consideration to local communities and individuals with the greatest relative need and the fewest resources;

(6) Participate with other states or subdivisions thereof in interstate programs and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states and provinces or their subdivisions;

(7) Hold public hearings and meetings to carry out the purposes of this chapter;

(8) Conduct research and analysis in furtherance of the state's economic and community development efforts including maintenance of current information on market, demographic, and economic trends as they affect different industrial sectors, geographic regions, and communities with special economic and social problems in the state; and

(9) Develop a schedule of fees for services where appropriate. [2016 sp.s. c 12 § 2; 2014 c 112 § 110; 2005 c 136 § 12; 1993 c 280 § 7.]

Additional notes found at www.leg.wa.gov

43.330.060 Trade and business responsibilities. (1) The department shall (a) assist in expanding the state's role as an international center of trade, culture, and finance; (b) promote and market the state's products and services both nationally and internationally; (c) work in close cooperation with other private and public international trade efforts; (d) act as a centralized location for the assimilation and distribution of trade information; and (e) establish and operate foreign offices promoting overseas trade and commerce.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in workforce training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools; by assisting in targeting and improving the efficiency of existing investment mechanisms; and by assisting in the procurement of managerial and technical assistance necessary to attract potential investors.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to entrepreneurial success. The department shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. Instruction shall be offered in

major population centers throughout the state at times and locations that are convenient for minority and women small business owners.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the department, in conjunction with the small business development center, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the department and the center may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

- (i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;
- (ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;
- (iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and
- (iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The department and the center must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting. [2010 c 165 § 2; 2005 c 136 § 13; 1993 c 280 § 9.]

Findings—Intent—2010 c 165: "The legislature finds that small businesses and entrepreneurs are a fundamental source of economic and community vitality for our state. They employ state residents, pay state taxes, purchase goods and services from local and regional companies, and contribute to our communities in many other ways. The legislature finds that small businesses and entrepreneurs need increased access to capital and technical assistance in order to maximize their potential. The legislature intends that the department of commerce and the small business development center each build upon their existing relevant statutory missions and authorities by collaborating on a specific plan to expand services to small businesses and entrepreneurs beginning in the 2011-2013 biennium." [2010 c 165 § 1.]

Additional notes found at www.leg.wa.gov

43.330.062 Recruitment and retention of business—Protocols for associate development organizations and department staff. In carrying out its responsibilities under RCW 43.330.060 and 43.330.080, the department must establish protocols to be followed by associate development organizations and department staff for the recruitment and retention of businesses. The protocols must specify the circumstances under which an associate development organization is required to notify the department of its business recruitment and retention efforts and when the department must notify the associate development organization of its business recruitment and retention efforts. The protocols established may not require the release of proprietary information or the disclosure of information that a client company has requested remain confidential. The department must require compliance with the protocols in its contracts with associate development organizations. [2011 c 286 § 1.]

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43.330.065 Identification of countries of strategic importance for international trade relations. The *department of community, trade, and economic development, in consultation with the office of protocol, the office of the secretary of state, the department of agriculture, and the employment security department shall identify up to fifteen countries that are of strategic importance to the development of Washington's international trade relations. [1996 c 253 § 303.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Purpose—Severability—Part headings not law—1996 c 253: See notes following RCW 28B.109.010.

43.330.068 International companies investing in Washington—Eligibility for excise tax incentives. An international company investing in Washington is included within the definition of person in RCW 82.04.030 and is eligible for excise tax incentives provided in Title 82 RCW in the same manner as any domestic company. [2005 c 135 § 2.]

Finding—Intent—2005 c 135: "The legislature finds that many international companies with an interest in operating in Washington are not aware of the various tax incentives that are available. It is the intent of the legislature to ensure that these international companies understand that they are eligible for these business and occupation tax and sales and use tax deferrals when investing in Washington. It is the further intent of the legislature that the *department of community, trade, and economic development and associate development organizations make clear to international companies that they are eligible for the state's various tax incentives." [2005 c 135 § 1.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

43.330.070 Local development capacity—Training and technical assistance. (1) The department shall work closely with local communities to increase their capacity to respond to economic, environmental, and social problems and challenges. The department shall coordinate the delivery of development services and technical assistance to local communities or regional areas. It shall promote partnerships between the public and private sectors and between state and local officials to encourage appropriate economic growth and opportunity in communities throughout the state. The department shall promote appropriate local development by: Supporting the ability of communities to develop and implement strategic development plans; assisting businesses to start up, maintain, or expand their operations; encouraging public infrastructure investment and private and public capital investment in local communities; supporting efforts to manage growth and provide affordable housing and housing services; providing for the identification and preservation of the state's historical and cultural resources; and expanding employment opportunities.

(2) The department shall define a set of services including training and technical assistance that it will make available to local communities, community-based nonprofit organizations, regional areas, or businesses. The department shall simplify access to these programs by providing more centralized and user-friendly information and referral. The department shall coordinate community and economic development efforts to minimize program redundancy and maximize accessibility. The department shall develop a set of criteria for targeting services to local communities.

(3) The department shall develop a coordinated and systematic approach to providing training to community-based

nonprofit organizations, local communities, and businesses. The approach shall be designed to increase the economic and community development skills available in local communities by providing training and funding for training for local citizens, nonprofit organizations, and businesses. The department shall emphasize providing training in those communities most in need of state assistance. [1993 c 280 § 10.]

43.330.075 Local government regulation and policy handouts—Technical assistance. The department shall provide technical assistance in the compilation of and support in the production of the handouts to be published and kept current by counties and cities under RCW 36.70B.220. [1996 c 206 § 11.]

Findings—1996 c 206: See note following RCW 43.05.030.

43.330.080 Coordination of community and economic development services—Contracts with county-designated associate development organizations—Scope of services—Business services training. (1)(a) The department must contract with county-designated associate development organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The contracting organizations in each community or regional area must:

- (i) Be broadly representative of community and economic interests;
- (ii) Be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives;
- (iii) Work closely with the department to carry out state-identified economic development priorities;
- (iv) Work with and include local governments, local chambers of commerce, workforce development councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups; and
- (v) Meet and share best practices with other associate development organizations at least two times each year.

(b) The scope of services delivered under the contracts required in (a) of this subsection must include two broad areas of work:

(i) Direct assistance, including business planning, to companies throughout the county who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance must comply with business recruitment and retention protocols established in RCW 43.330.062, and includes:

(A) Working with the appropriate partners throughout the county including, but not limited to, local governments, workforce development councils, port districts, community and technical colleges and higher education institutions, export assistance providers, impact Washington, the Washington state quality award council, small business assistance programs, innovation partnership zones, and other federal, state, and local programs to facilitate the alignment of planning efforts and the seamless delivery of business support services within the entire county;

(B) Providing information on state and local permitting processes, tax issues, export assistance, and other essential information for operating, expanding, or locating a business in Washington;

(C) Marketing Washington and local areas as excellent locations to expand or relocate a business and positioning Washington as a globally competitive place to grow business, which may include developing and executing regional plans to attract companies from out of state;

(D) Working with businesses on-site location and selection assistance;

(E) Providing business retention and expansion services throughout the county. Such services must include, but are not limited to, business outreach and monitoring efforts to identify and address challenges and opportunities faced by businesses, assistance to trade impacted businesses in applying for grants from the federal trade adjustment assistance for firms program, and the provision of information to businesses on:

- (I) Resources available for microenterprise development;
 - (II) Resources available on the revitalization of commercial districts; and
 - (III) The opportunity to maintain jobs through shared work programs authorized under chapter 50.60 RCW;
- (F) Participating in economic development systemwide discussions regarding gaps in business start-up assistance in Washington;

(G) Providing or facilitating the provision of export assistance through workshops or one-on-one assistance; and

(H) Using a web-based information system to track data on business recruitment, retention, expansion, and trade; and

(ii) Support for regional economic research and regional planning efforts to implement target industry sector strategies and other economic development strategies, including cluster-based strategies. Research and planning efforts should support increased living standards and increased foreign direct investment, and be aligned with the statewide economic development strategy. Regional associate development organizations retain their independence to address local concerns and goals. Activities include:

(A) Participating in regional planning efforts with workforce development councils involving coordinated strategies around workforce development and economic development policies and programs. Coordinated planning efforts must include, but not be limited to, assistance to industry clusters in the region;

(B) Participating with the state board for community and technical colleges as created in RCW 28B.50.050, and any community and technical colleges in the coordination of the job skills training program and the customized training program within its region;

(C) Collecting and reporting data as specified by the contract with the department for statewide systemic analysis. In cooperation with other local, regional, and state planning efforts, contracting organizations may provide insight into the needs of target industry clusters, business expansion plans, early detection of potential relocations or layoffs, training needs, and other appropriate economic information;

(D) In conjunction with other governmental jurisdictions and institutions, participating in the development of a county-wide economic development plan.

(2) The department must provide business services training to the contracting organizations, including but not limited to:

(a) Training in the fundamentals of export assistance and the services available from private and public export assistance providers in the state; and

(b) Training in the provision of business retention and expansion services as required by subsection (1)(b)(i)(E) of this section. [2014 c 112 § 111; 2012 c 195 § 1; 2011 c 286 § 2; 2009 c 151 § 10; 2007 c 249 § 2; 1997 c 60 § 1; 1993 c 280 § 11.]

Findings—Intent—2007 c 249: "The legislature finds that economic development success requires coordinated state and local efforts. The legislature further finds that economic development happens at the local level. County-designated associate development organizations serve as a networking tool and resource hub for business retention, expansion, and relocation in Washington. Economic development success requires an adequately funded and coordinated state effort and an adequately funded and coordinated local effort. The legislature intends to bolster the partnership between state and local economic development efforts, provide increased funding for local economic development services, and increase local economic development service effectiveness, efficiency, and outcomes." [2007 c 249 § 1.]

43.330.082 Contracting associate development organizations—Performance measures and summary of best practices—Remediation plans—Report. (1)(a) Contracting associate development organizations must provide the department with measures of their performance and a summary of best practices shared and implemented by the contracting organizations. Annual reports must include the following information to show the contracting organization's impact on employment and overall changes in employment: Current employment and economic information for the community or regional area produced by the employment security department; the net change from the previous year's employment and economic information using data produced by the employment security department; other relevant information on the community or regional area; the amount of funds received by the contracting organization through its contract with the department; the amount of funds received by the contracting organization through all sources; and the contracting organization's impact on employment through all funding sources. Annual reports may include the impact of the contracting organization on wages, exports, tax revenue, small business creation, foreign direct investment, business relocations, expansions, terminations, and capital investment. Data must be input into a common web-based business information system managed by the department. Specific measures, data standards, and data definitions must be developed in the contracting process between the department and the contracting organization every two years. Except as provided in (b) of this subsection, performance measures should be consistent across regions to allow for statewide evaluation.

(b) In addition to the measures required in (a) of this subsection, contracting associate development organizations in counties with a population greater than one million five hundred thousand persons must include the following measures in reports to the department:

(i) The number of small businesses that received retention and expansion services, and the outcome of those services;

(ii) The number of businesses located outside of the boundaries of the largest city within the contracting associate development organization's region that received recruitment, retention, and expansion services, and the outcome of those services.

(2)(a) The department and contracting associate development organizations must agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance must occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures must develop remediation plans to address performance gaps. The remediation plans must include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

(c) Contracts and state funding must be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for non-performance is in effect, organizations must review alternative delivery strategies to include reorganization of the contracting organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department must submit a final report to the legislature by December 31st of each even-numbered year on the performance results of the contracts with associate development organizations. [2014 c 112 § 112; 2012 c 195 § 2; 2011 c 286 § 3; 2009 c 518 § 15; 2007 c 249 § 3.]

Findings—Intent—2007 c 249: See note following RCW 43.330.080.

43.330.084 Washington state quality award—Reimbursement of application fee. Up to five associate development organizations per year contracting with the department under chapter 249, Laws of 2007 that apply for the Washington state quality award or its equivalent shall receive reimbursement for the award application fee, but may not be reimbursed more than once every three years. [2007 c 249 § 4.]

Findings—Intent—2007 c 249: See note following RCW 43.330.080.

43.330.086 Contracts with associate development organizations—Schedule of awards. To the extent that funds are specifically appropriated therefor, contracts with associate development organizations for the provision of services under *RCW 43.330.080(1) shall be awarded according to the following annual schedule:

(1) For associate development associations serving urban counties, which are counties other than rural counties as defined in RCW 82.14.370, a locally matched allocation of up to ninety cents per capita, totaling no more than three hundred thousand dollars per organization; and

(2) For associate development associations in rural counties, as defined in RCW 82.14.370, a per county base allocation of up to forty thousand dollars and a locally matched

allocation of up to ninety cents per capita. [2008 c 131 § 3; 2007 c 249 § 5.]

***Reviser's note:** RCW 43.330.080 was amended by 2012 c 195 § 1, changing the subsection numbering.

Findings—Intent—2007 c 249: See note following RCW 43.330.080.

Additional notes found at www.leg.wa.gov

43.330.090 Economic diversification strategies—Targeted industry sectors—Film and video production.

(1) The department shall work with private sector organizations, industry and sector associations, federal agencies, state agencies that use a sector-based approach to service delivery, local governments, local associate development organizations, and higher education and training institutions in the development of industry sector-based strategies to diversify the economy, facilitate technology transfer and diffusion, and increase value-added production. The industry sectors targeted by the department may include, but are not limited to, aerospace, agriculture, food processing, forest products, marine services, health and biomedical, software, digital and interactive media, transportation and distribution, and micro-electronics. The department shall, on a continuing basis, evaluate the potential return to the state from devoting additional resources to an industry sector-based approach to economic development and identifying and assisting additional sectors.

(2) The department's sector-based strategies shall include, but not be limited to, cluster-based strategies that focus on assisting regional industry sectors and related firms and institutions that meet the definition of an industry cluster in this section and based on criteria identified by the working group established in this chapter.

(3)(a) The department shall promote, market, and encourage growth in the production of films and videos, as well as television commercials within the state; to this end the department is directed to assist in the location of a film and video production studio within the state.

(b) The department may, in carrying out its efforts to encourage film and video production in the state, solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, or other governmental entities, as well as private sources, and may expend the same or any income therefrom for the encouragement of film and video production. All revenue received for such purposes shall be deposited into the general fund.

(4) In assisting in the development of regional and state-wide industry cluster-based strategies, the department's activities shall include, but are not limited to:

(a) Facilitating regional focus group discussions and conducting studies to identify industry clusters, appraise the current information linkages within a cluster, and identify issues of common concern within a cluster;

(b) Supporting industry and cluster associations, publications of association and cluster directories, and related efforts to create or expand the activities of industry and cluster associations;

(c) Administering a competitive grant program to fund economic development activities designed to further regional cluster growth. In administering the program, the department shall work with the workforce training and education coordinating board, the state board for community and technical

colleges, the employment security department, business, and labor.

(i) The department shall seek recommendations on criteria for evaluating applications for grant funds and recommend applicants for receipt of grant funds. Criteria shall include not duplicating the purpose or efforts of industry skill panels.

(ii) Applicants must include organizations from at least two counties and participants from the local business community. Eligible organizations include, but are not limited to, local governments, economic development councils, chambers of commerce, federally recognized Indian tribes, workforce development councils, and educational institutions.

(iii) Applications must evidence financial participation of the partner organizations.

(iv) Eligible activities include the formation of cluster economic development partnerships, research and analysis of economic development needs of the cluster, the development of a plan to meet the economic development needs of the cluster, and activities to implement the plan.

(v) Priority shall be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

(vi) The maximum amount of a grant is one hundred thousand dollars.

(vii) A maximum of one hundred thousand dollars total can go to King, Pierce, Kitsap, and Snohomish counties combined.

(viii) No more than ten percent of funds received for the grant program may be used by the department for administrative costs.

(5) As used in this chapter, "industry cluster" means a geographic concentration of interconnected companies in a single industry, related businesses in other industries, including suppliers and customers, and associated institutions, including government and education. [2014 c 112 § 113; 2012 c 198 § 3; 2010 1st sp.s. c 7 § 59; 2009 c 151 § 1; 2007 c 228 § 201; 2006 c 105 § 1; 2005 c 136 § 14; 2003 c 153 § 2; 1998 c 245 § 85; 1994 c 144 § 1; 1993 c 280 § 12.]

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Findings—2003 c 153: "The legislature finds that tourism is a growing sector of the Washington economy. Washington has a diverse geography, geology, climate, and natural resources, and offers abundant opportunities for wildlife viewing. Nature-based tourism is the fastest growing outdoor activity and segment of the travel industry and the state can take advantage of this by marketing Washington's natural assets to international as well as national tourist markets. Expanding tourism efforts can provide Washington residents with jobs and local communities with needed revenues.

The legislature also finds that current efforts to promote Washington's natural resources and nature-based tourism to national and international markets are too diffuse and limited by funding and that a collaborative effort among state and local governments, tribes, and private enterprises can serve to leverage the investments in nature-based tourism made by each." [2003 c 153 § 1.]

Additional notes found at www.leg.wa.gov

43.330.094 Tourism development and promotion account—Promotion of tourism industry. The tourism development and promotion account is created in the state treasury. All receipts from RCW 36.102.060(10) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of commerce only for the pur-

poses of expanding and promoting the tourism industry in the state of Washington. During the 2009-2011 fiscal biennium, the legislature may transfer from the tourism development and promotion account to the state general fund such amounts as reflect the excess fund balance of the account. [2011 c 5 § 913; 2009 c 565 § 6; 2007 c 228 § 202; 2003 c 153 § 4; 1997 c 220 § 223 (Referendum Bill No. 48, approved June 17, 1997).]

Findings—2003 c 153: See note following RCW 43.330.090.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Additional notes found at www.leg.wa.gov

43.330.100 Local infrastructure and public facilities—Grants and loans. (1) The department shall support the development and maintenance of local infrastructure and public facilities and provide local communities with flexible sources of funding. The department shall coordinate grant and loan programs that provide infrastructure and investment in local communities. This shall include coordinating funding for eligible projects with other federal, state, local, private, and nonprofit funding sources.

(2) At a minimum, the department shall provide coordinated procedures for applying for and tracking grants and loans among and between the community economic revitalization board, the public works trust fund, and community development block grants. [1993 c 280 § 13.]

43.330.110 Housing—Energy assistance. (1) The department shall maintain an active effort to help communities, families, and individuals build and maintain capacity to meet housing needs in Washington state. The department shall facilitate partnerships among the many entities related to housing issues and leverage a variety of resources and services to produce comprehensive, cost-effective, and innovative housing solutions.

(2) The department shall assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for very low, low, and moderate-income persons; operate programs to assist homeownership, offer housing services, and provide emergency, transitional, and special needs housing services; and qualify as a participating state agency for all programs of the federal department of housing and urban development or its successor. The department shall develop or assist local governments in developing housing plans required by the state or federal government.

(3) The department shall coordinate and administer energy assistance and residential energy conservation and rehabilitation programs of the federal and state government through nonprofit organizations, local governments, and housing authorities. [1993 c 280 § 14.]

43.330.120 Growth management. (1) The department shall serve as the central coordinator for state government in the implementation of the growth management act, chapter 36.70A RCW. The department shall work closely with all Washington communities planning for future growth and responding to the pressures of urban sprawl. The department

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shall ensure coordinated implementation of the growth management act by state agencies.

(2) The department shall offer technical and financial assistance to cities and counties planning under the growth management act. The department shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.

(3) The department shall provide alternative dispute resolution to jurisdictions and organizations to mediate disputes and to facilitate consistent implementation of the growth management act. The department shall review local governments compliance with the requirements of the growth management act and make recommendations to the governor. [1993 c 280 § 15.]

43.330.125 Assistance to counties and cities. The department of commerce shall provide training and technical assistance to counties and cities to assist them in fulfilling the requirements of chapter 36.70B RCW. [2009 c 565 § 7; 1995 c 347 § 430.]

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW 36.70A.470.

43.330.130 Services to poor and disadvantaged persons—Preschool children—Substance abuse—Family services—Fire protection and emergency management. (1) The department shall coordinate services to communities that are directed to the poor and disadvantaged through private and public nonprofit organizations and units of general purpose local governments. The department shall coordinate these programs using, to the extent possible, integrated case management methods, with other community and economic development efforts that promote self-sufficiency.

(2) These services may include, but not be limited to, comprehensive education services to preschool children from low-income families, providing for human service needs and advocacy, promoting volunteerism and citizen service as a means for accomplishing local community and economic development goals, and providing for human service needs through community-based organizations.

(3) The department shall provide local communities and at-risk individuals with programs that provide community protection and assist in developing strategies to reduce substance abuse. The department shall administer programs that develop collaborative approaches to prevention, intervention, and interdiction programs. The department shall administer programs that support crime victims, address youth and domestic violence problems, provide indigent defense for low-income persons, border town disputes, and administer family services and programs to promote the state's policy as provided in RCW 74.14A.025.

(4) The department shall provide fire protection and emergency management services to support and strengthen local capacity for controlling risk to life, property, and community vitality that may result from fires, emergencies, and disasters. [2010 c 68 § 2; 1993 c 280 § 16.]

Additional notes found at www.leg.wa.gov

43.330.135 Court-appointed special advocate programs—Funds—Eligibility. (1) The department of com-

merce shall distribute such funds as are appropriated for the statewide technical support, development, and enhancement of court-appointed special advocate programs.

(2) In order to receive money under subsection (1) of this section, an organization providing statewide technical support, development, and enhancement of court-appointed special advocate programs must meet all of the following requirements:

(a) The organization must provide statewide support, development, and enhancement of court-appointed special advocate programs that offer guardian ad litem services as provided in RCW 26.12.175, 26.44.053, and 13.34.100;

(b) All guardians ad litem working under court-appointed special advocate programs supported, developed, or enhanced by the organization must be volunteers and may not receive payment for services rendered pursuant to the program. The organization may include paid positions that are exclusively administrative in nature, in keeping with the scope and purpose of this section; and

(c) The organization providing statewide technical support, development, and enhancement of court-appointed special advocate programs must be a public benefit nonprofit corporation as defined in RCW 24.03A.245.

(3) If more than one organization is eligible to receive money under this section, the department shall develop criteria for allocation of appropriated money among the eligible organizations. [2021 c 176 § 5226; 2009 c 565 § 8; 1995 c 13 § 1.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

43.330.145 Entrepreneurial assistance—Recipients of temporary assistance for needy families—Cooperation with agencies for training and industrial recruitment. (1) The department shall ensure that none of its rules or practices act to exclude recipients of temporary assistance for needy families from any small business loan opportunities or entrepreneurial assistance it makes available through its community development block grant program or otherwise provides using state or federal resources. The department shall encourage local administrators of microlending programs using public funds to conduct outreach activities to encourage recipients of temporary assistance for needy families to explore self-employment as an option. The department shall compile information on private and public sources of entrepreneurial assistance and loans for start-up businesses and provide the department of social and health services with the information for dissemination to recipients of temporary assistance for needy families.

(2) The department shall, as part of its industrial recruitment efforts, work with the workforce training and education coordinating board to identify the skill sets needed by companies locating in the state. The department shall provide the department of social and health services with the information about the companies' needs in order that recipients of public assistance and service providers assisting such recipients through training and placement programs may be informed and respond accordingly. The department shall work with the state board for community and technical colleges, the job skills program, the employment security department, and other employment and training programs to facilitate the inclusion of recipients of temporary assistance for needy

families in relevant training that would make them good employees for recruited firms.

(3) The department shall perform the duties under this section within available funds. [1997 c 58 § 323.]

Additional notes found at www.leg.wa.gov

43.330.150 Fees—Conferences, workshops, training. The department is authorized to charge reasonable fees to cover costs for conferences, workshops, and training purposes and to expend those fees for the purposes for which they were collected. [1994 c 284 § 1.]

Additional notes found at www.leg.wa.gov

43.330.152 Fees—Service and product delivery areas. In order to extend its services and programs, the department may charge reasonable fees for services and products provided in the areas of financial assistance, housing, international trade, community assistance, economic development, and other service delivery areas, except as otherwise provided. These fees are not intended to exceed the costs of providing the service or preparing and distributing the product. [1994 c 284 § 2.]

Additional notes found at www.leg.wa.gov

43.330.155 Community and economic development fee account. The community and economic development fee account is created in the state treasury. The department may create subaccounts as necessary. The account consists of all receipts from fees charged by the department under RCW 43.330.150, 43.330.152, and *43.210.110. Expenditures from the account may be used only for the purposes of this chapter. Only the director or the director's designee may authorize expenditures from the account. Expenditures from the account may be spent only after appropriation. [1994 c 284 § 4.]

***Reviser's note:** RCW 43.210.110 was repealed by 1991 c 314 § 18, effective June 30, 1997.

Additional notes found at www.leg.wa.gov

43.330.156 Fees—Adoption by rule. The fees authorized under RCW 43.330.150, 43.330.152, *70.95H.040, and **43.210.110 shall be adopted by rule pursuant to chapter 34.05 RCW. [1994 c 284 § 8.]

Reviser's note: *(1) The governor vetoed 1994 c 284 § 5, the amendment to RCW 70.95H.040 that provided for fees. Chapter 70.95H RCW was repealed in its entirety by 2017 3rd sp.s. c 25 § 9.

** (2) RCW 43.210.110 was repealed by 1991 c 314 § 18, effective June 30, 1997.

Additional notes found at www.leg.wa.gov

43.330.165 Housing for farmworkers—Proposal review and funding recommendations—Farmworker housing advisory group. (1) The department shall work with the advisory group established in subsection (2) of this section to review proposals and make prioritized funding recommendations to the department or funding approval board that oversees the distribution of housing trust fund grants and loans to be used for the development, maintenance, and operation of housing for low-income farmworkers.

(2) A farmworker housing advisory group representing growers, farmworkers, and other interested parties shall be

formed to assist the department in the review and priority funding recommendations under this section. [1998 c 37 § 8.]

43.330.167 Washington youth and families fund.

(1)(a) There is created in the custody of the state treasurer an account to be known as the Washington youth and families fund. Revenues to the fund consist of appropriations by the legislature, private contributions, and all other sources deposited in the fund.

(b) Expenditures from the fund may only be used for the purposes of the program established in this section, including administrative expenses. Only the director of the department of commerce, or the director's designee, may authorize expenditures.

(c) Expenditures from the fund are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. However, money used for program administration by the department is subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department may expend moneys from the fund to provide state matching funds for housing-based supportive services for homeless youth and families.

(3) Activities eligible for funding through the fund include, but are not limited to, the following:

- (a) Case management;
- (b) Counseling;
- (c) Referrals to employment support and job training services and direct employment support and job training services;
- (d) Domestic violence services and programs;
- (e) Mental health treatment, services, and programs;
- (f) Substance abuse treatment, services, and programs;
- (g) Parenting skills education and training;
- (h) Transportation assistance;
- (i) Child care; and
- (j) Other supportive services identified by the department to be an important link for housing stability.

(4) Organizations that may receive funds from the fund include local housing authorities, nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, and regional or statewide nonprofit housing assistance organizations. [2015 c 69 § 24; 2009 c 565 § 9; 2004 c 276 § 718.]

Additional notes found at www.leg.wa.gov

43.330.170 Statewide housing market analysis. The office of community development of the department of commerce is directed to conduct a statewide housing market analysis by region. The purpose of the analysis is to identify areas of greatest need for the appropriate investment of state affordable housing funds, using vacancy data and other appropriate measures of need for low-income housing. The analysis shall include the number and types of projects that counties have developed using the funds collected under chapter 294, Laws of 2002. The analysis shall be completed by September 2003, and updated every two years thereafter. [2009 c 565 § 10; 2002 c 294 § 4.]

Findings—2002 c 294: See note following RCW 36.22.178.

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43.330.181 Office of apple health and homes—Responsibilities. (1) Subject to the availability of amounts appropriated for this specific purpose, there is created the office of apple health and homes within the department.

(2) Activities of the office of apple health and homes must be carried out by a director of the office of apple health and homes, supervised by the director of the department or their designee.

(3) The office of apple health and homes is responsible for leading efforts under this section and coordinating a spectrum of practice efforts related to providing permanent supportive housing, including leading efforts related to every aspect of creating housing, operating housing, obtaining services, and delivering those services to connect people with housing and maintain them in that housing.

(4) The office of apple health and homes shall:

(a) Subject to available funding, allocate funding for permanent supportive housing units sufficient in number to fulfill permanent supportive housing needs of persons determined to be eligible for the program by the coordinating entity or entities under RCW 74.09.886;

(b) Collaborate with department divisions responsible for making awards or loans to appropriate housing providers to acquire, build, and operate the housing units, including but not limited to nonprofit community organizations, local counties and cities, public housing authorities, and public development authorities;

(c) Collaborate with the authority on administrative functions, oversight, and reporting requirements, as necessary to implement the apple health and homes program established under RCW 74.09.886;

(d) Establish metrics and collect racially disaggregated data from the authority and the department related to the program's effect on providing persons with permanent supportive housing, moving people into independent housing, long-term housing stability, improving health outcomes for people in the program, estimated reduced health care spending to the state on persons enrolled in the program, and outcomes related to social determinants of health;

(e) Develop a publicly accessible dashboard to make key program outcomes available to the public. Key program outcomes include, but are not limited to, the number of people served by the program and the number of housing units created by the office;

(f) Create work plans and establish milestones to achieve the goal of providing permanent supportive housing for all eligible individuals; and

(g) Oversee the allocation of community support services provider and housing provider capacity-building grants to further the state's interests of enhancing the ability of community support services providers and housing providers to deliver community support services and permanent supportive housing and assure that an initial infrastructure is established to create strong networks of community support services providers and housing providers.

(5) The office of apple health and homes must be operational no later than January 1, 2023. The department shall assure the coordination of the work of the office of apple health and homes with other offices within the department with similar or adjacent authorities and functions.

(6) For the purposes of this section:

(a) "Community support services provider" has the same meaning as in RCW 74.09.885.

(b) "Coordinating entity" has the same meaning as in RCW 74.09.885.

(c) "Housing provider" has the same meaning as in RCW 74.09.885.

(d) "Permanent supportive housing" has the same meaning as in RCW 74.09.885. [2022 c 216 § 5.]

Findings—Intent—Short title—2022 c 216: See notes following RCW 74.09.885.

43.330.184 Apple health and homes account. The apple health and homes account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for permanent supportive housing programs administered by the office created in RCW 43.330.181, including acquisition and development of permanent supportive housing units, operations, maintenance, and services costs of permanent supportive housing units, project-based vouchers, provider grants, and other purposes authorized by appropriations made in the operating budget. The department must prioritize allocating at least 10 percent of the expenditures from the account to organizations that serve and are substantially governed by individuals disproportionately impacted by homelessness and behavioral health conditions, including black, indigenous, and other people of color, lesbian, gay, bisexual, queer, transgender, and other gender diverse individuals. When selecting projects supported by funds from the account, the office shall balance the state's interest in quickly approving and financing projects, the degree to which the project will leverage other funds, the extent to which the project promotes racial equity, and the extent to which the project will promote priorities of chapter 216, Laws of 2022 on a statewide basis, including in rural areas and in geographically diverse parts of the state. [2022 c 216 § 6.]

Findings—Intent—Short title—2022 c 216: See notes following RCW 74.09.885.

43.330.187 Rapid permanent supportive housing acquisition and development program. Subject to amounts appropriated from the apple health and homes account created in RCW 43.330.184 the department of commerce shall establish a rapid permanent supportive housing acquisition and development program to issue competitive financial assistance to eligible organizations under RCW 43.185A.040 and to public development authorities established under RCW 35.21.730 through 35.21.755, for the acquisition or the construction of permanent supportive housing units, subject to the following conditions and limitations:

(1) Awards or loans provided under this section may be used to construct permanent supportive housing units or to acquire real property for quick conversion into permanent supportive housing units which may include predevelopment or development activities, renovation, and building update costs. Awards or loans provided under this section may not be used for operating or maintenance costs associated with providing permanent supportive housing, supportive services, or debt service.

(2) Projects acquired or constructed under this section must serve individuals eligible for a community support ser-

vices benefit through the apple health and homes program, as established in RCW 74.09.886.

(3) The department of commerce shall establish criteria for the issuance of the awards or loans, including but not limited to:

(a) The date upon which structural modifications or construction would begin and the anticipated date of completion of the project;

(b) A detailed estimate of the costs associated with the construction or acquisition and any updates or improvements necessary to make the property habitable for its intended use;

(c) A detailed estimate of the costs associated with opening the units; and

(d) A financial plan demonstrating the ability to maintain and operate the property and support its intended tenants through the end of the award or loan contract.

(4) The department of commerce shall provide a progress report on its website by June 1, 2023. The report must include:

(a) The total number of applications and amount of funding requested; and

(b) A list and description of the projects approved for funding including state funding, total project cost, number of units, and anticipated completion date.

(5)(a) The funding in this section shall be allocated on an ongoing basis until all funds are expended. The department of commerce shall dispense funds to qualifying applicants within 45 days of receipt of documentation from the applicant for qualifying uses and execution of any necessary contracts with the department in order to effect the purpose of rapid deployment of funds under this section.

(b) The department of commerce shall ensure that proposals that reach the greatest public benefit, as defined by the department, are prioritized. For the purposes of this subsection, "greatest public benefit" must include, but is not limited to:

(i) The greatest number of qualifying permanent supportive housing units created by the state investment, determined by comparing simultaneous applications for funding from the same geographic region; and

(ii) Equitable geographic distribution, to the extent possible, relative to need, as determined by the establishment of regional targets. [2022 c 216 § 8.]

Findings—Intent—Short title—2022 c 216: See notes following RCW 74.09.885.

43.330.190 Reimbursement of extraordinary criminal justice costs. Counties may submit a petition for relief to the office of public defense for reimbursement of extraordinary criminal justice costs. Extraordinary criminal justice costs are defined as those associated with investigation, prosecution, indigent defense, jury impanelment, expert witnesses, interpreters, incarceration, and other adjudication costs of aggravated murder cases.

(1) The office of public defense, in consultation with the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs, shall develop procedures for processing the petitions, for auditing the veracity of the petitions, and for prioritizing the petitions. Prioritization of the petitions shall be based on, but not limited to, such factors as disproportionate fiscal impact relative

to the county budget, efficient use of resources, and whether the costs are extraordinary and could not be reasonably accommodated and anticipated in the normal budget process.

(2) Before January 1st of each year, the office of public defense, in consultation with the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs, shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of submitted petitions that are recommended for funding by the legislature. [1999 c 303 § 1.]

43.330.250 Economic development strategic reserve account—Authorized expenditures—Transfer of excess funds to the education construction account. (1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, with the recommendation of the director of the department of commerce, may authorize expenditures from the account.

(3) During the 2009-2011 and 2011-2013 fiscal biennia, moneys in the account may also be transferred into the state general fund.

(4) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Expenditures may be authorized for:

- (a) Workforce development;
- (b) Public infrastructure needed to support or sustain the operations of the business or facility;
- (c) Other lawfully provided assistance including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may only be provided under a contractual arrangement ensuring that the state will receive appropriate consideration, such as an assurance of job creation or retention; and

(d) The joint center for aerospace technology innovation.

(5) The funds shall not be expended from the account unless:

(a) The circumstances are such that time does not permit the director of the department of commerce or the business or facility to secure funding from other state sources;

(b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

(6) No more than three million dollars per year may be expended from the account for the purpose of assisting an individual business or facility pursuant to the authority specified in this section.

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(7) If the account balance in the strategic reserve account exceeds fifteen million dollars at any time, the amount in excess of fifteen million dollars shall be transferred to the education construction account.

(8) During the 2017-2019 and 2019-2021 fiscal biennia, the legislature may appropriate moneys from the account to fund programs and grants at the department of commerce. It is the intent of the legislature that this policy will be continued in subsequent fiscal biennia. [2019 c 415 § 974; 2017 3rd sp.s. c 1 § 975; 2015 3rd sp.s. c 4 § 962; 2014 c 112 § 114; 2013 2nd sp.s. c 24 § 1; 2011 1st sp.s. c 50 § 956. Prior: 2009 c 565 § 13; 2009 c 564 § 943; 2008 c 329 § 914; 2005 c 427 § 1.]

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Additional notes found at www.leg.wa.gov

43.330.260 Inventory of economic development grant opportunities—Joint efforts for grant seeking and attracting major events. (1) The department shall make available, within existing resources, an inventory of grant opportunities for state agencies, local governments, and other community organizations engaged in economic development activities.

(2) In developing the inventory of economic development grant opportunities, the department may:

(a) Regularly review the federal register for opportunities to apply for grants, research projects, and demonstration projects;

(b) Maintain an inventory of grant opportunities with private foundations and businesses; and

(c) Consult with federal officials, including but not limited to those in the small business administration, the department of labor, the department of commerce, the department of agriculture, the department of ecology, as well as private foundations and businesses, on the prospects for obtaining federal and private funds for economic development purposes in Washington state.

(3) The department may also facilitate joint efforts between agencies and between local organizations and state agencies that will increase the likelihood of success in grant seeking and the attraction of major events. [2006 c 314 § 2.]

Finding—2006 c 314: "The legislature declares that it is the state's policy to encourage the use of federal and private funds for economic development purposes and to use state resources to leverage federal and private dollars to supplement state economic development efforts." [2006 c 314 § 1.]

43.330.270 Innovation partnership zone program.

(1) The department must design and implement an innovation partnership zone program through which the state will encourage and support research institutions, workforce training organizations, and globally competitive companies to work cooperatively in close geographic proximity to create commercially viable products and jobs.

(2) The director must designate innovation partnership zones on the basis of the following criteria:

(a) Innovation partnership zones must have three types of institutions operating within their boundaries, or show evi-

dence of planning and local partnerships that will lead to dense concentrations of these institutions:

(i) Research capacity in the form of a university or community college fostering commercially valuable research, nonprofit institutions creating commercially applicable innovations, or a national laboratory;

(ii) An industry cluster as defined in RCW 43.330.090. The cluster must include a dense proximity of globally competitive firms in a research-based industry or industries or individual firms with innovation strategies linked to (a)(i) of this subsection. A globally competitive firm may be signified through international organization for standardization 9000 or 1400 certification, or evidence of sales in international markets; and

(iii) Training capacity either within the zone or readily accessible to the zone. The training capacity requirement may be met by the same institution as the research capacity requirement, to the extent both are associated with an educational institution in the proposed zone;

(b) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(c) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(d) The innovation partnership zone administrator must be an economic development council, port, workforce development council, city, or county.

(3) With respect solely to the research capacity required in subsection (2)(a)(i) of this section, the director may waive the requirement that the research institution be located within the zone. To be considered for such a waiver, an applicant must provide a specific plan that demonstrates the research institution's unique qualifications and suitability for the zone, and the types of jointly executed activities that will be used to ensure ongoing, face-to-face interaction and research collaboration among the zone's partners.

(4) On October 1st of each odd-numbered year, the director must designate innovation partnership zones on the basis of applications that meet the legislative criteria, estimated economic impact of the zone, evidence of forward planning for the zone, and other criteria as developed by the department. Estimated economic impact must include evidence of anticipated private investment, job creation, innovation, and commercialization. The director must require evidence that zone applicants will promote commercialization, innovation, and collaboration among zone residents.

(5) Innovation partnership zones are eligible for funds and other resources as provided by the legislature or at the discretion of the governor.

(6) If the innovation partnership zone meets the other requirements of the fund sources, then the zone is eligible for the following funds relating to:

(a) The local infrastructure financing tools program;

(b) The sales and use tax for public facilities in rural counties;

(c) Job skills;

(d) Local improvement districts; and

(e) Community economic revitalization board projects under chapter 43.160 RCW.

(7) An innovation partnership zone must be designated as a zone for a four-year period. At the end of the four-year period, the zone must reapply for the designation through the department.

(8) If the director finds that an applicant does not meet all of the statutory criteria or additional criteria recommended by the department to be designated as an innovation partnership zone, the department must:

(a) Identify the deficiencies in the proposal and recommended steps for the applicant to take to strengthen the proposal;

(b) Provide the applicant with the opportunity to appeal the decision to the director; and

(c) Allow the applicant to reapply for innovation partnership designation on October 1st of the following calendar year or during any subsequent application cycle.

(9) If the director finds at any time after the initial year of designation that an innovation partnership zone is failing to meet the performance standards required in its contract with the department, the director may withdraw such designation and cease state funding of the zone.

(10) The department must convene annual information sharing events for innovation partnership zone administrators and other interested parties.

(11) An innovation partnership zone must annually provide performance measures as required by the director, including but not limited to private investment measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation.

(12) The department must compile a biennial report on the innovation partnership zone program by December 1st of every even-numbered year. The report must provide information for each zone on its: Objectives; funding, tax incentives, and other support obtained from public sector sources; major activities; partnerships; performance measures; and outcomes achieved since the inception of the zone or since the previous biennial report. The department must submit the report to the governor and legislature beginning December 1, 2010. [2014 c 112 § 115; 2012 c 225 § 1; 2009 c 72 § 1; 2007 c 227 § 1.]

43.330.280 Documentation of clusters of companies having a comparative competitive advantage—Process and criteria—Working group.

(1) The department shall document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section.

(2) The department and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will

include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors. [2014 c 112 § 116; 2012 c 229 § 708. Prior: 2009 c 565 § 14; 2009 c 72 § 2; 2007 c 227 § 2.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

43.330.300 Financial fraud and identity theft crimes investigation and prosecution program. (Expires July 1, 2030.) (1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of commerce. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include information regarding the use of funds and funding needs to facilitate a biennial review of the program's funding. The report must also include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central Puget Sound task force that includes King, Pierce, and Snohomish counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in RCW 62A.9A-525, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support

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the activities of the financial fraud and identity theft crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings.

(5) This section expires July 1, 2030. [2020 c 60 § 1; 2015 c 65 § 1; 2009 c 565 § 16; 2008 c 290 § 1.]

Effective date—2015 c 65: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015." [2015 c 65 § 5.]

43.330.310 Comprehensive green economy jobs growth initiative—Establishment. (1) The legislature establishes a comprehensive green economy jobs growth initiative based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004.

(2) The department, in consultation with the employment security department, the state workforce training and education coordinating board, and the state board for community and technical colleges, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs.

(3)(a) The employment security department, in consultation with the department, the state workforce training and education coordinating board, the state board for community and technical colleges, Washington State University small business development center, and the Washington State University extension energy program, shall conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries.

(i) The employment security department shall conduct an analysis of occupations in the forest products industry to: (A) Determine key growth factors and employment projections in the industry; and (B) define the education and skill standards required for current and emerging green occupations in the industry.

(ii) The term "forest products industry" must be given a broad interpretation when implementing (a)(i) of this subsection and includes, but is not limited to, businesses that grow, manage, harvest, transport, and process forest, wood, and paper products.

(b) The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington; identify existing barriers to their successful participa-

tion in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy. The employment security department and the department shall take into account which jobs within green economy industries will be considered high-wage occupations and occupations that are part of career pathways to the same, based on family-sustaining wage and benefits ranges. These designations, and the results of the employment security department's broader labor market research, shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, and the state board for community and technical colleges.

(5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from: Green industry sectors, including but not limited to forest product companies, companies engaged in energy efficiency and renewable energy production, companies engaged in pollution prevention, reduction, and miti-

gation, and companies engaged in green building work and green transportation; labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries; state and local veterans agencies; employer associations; educational institutions; and local workforce development councils within the region that the panels propose to operate; and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Leverage and align other public and private funding sources. [2014 c 112 § 117. Prior: 2012 c 229 § 590; 2012 c 198 § 12; 2010 c 187 § 2; 2008 c 14 § 9.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Effective date—2012 c 198: See note following RCW 70A.15.5110.

Findings—2010 c 187: "(1) The legislature finds that:

(a) Washington's forest products industry plays a critical economic and environmental role in the state. The industry provides a wide range of services and goods both to Washingtonians and people around the world and is vital to the well-being and lifestyle of the people of the state of Washington; and

(b) It is in the best interest of the state to support and enhance the forest products industry.

(2) The legislature further finds that the state's forest practices are sustainably managed according to some of the most stringent riparian growing and harvest rules of any state in the nation or in the world, and that the state of Washington has received fifty-year assurances from the federal government that the state's forest practices satisfy the requirements of the federal endangered species act for aquatic species. As part of their environmental stewardship, forestland owners in Washington have repaired or removed nearly three thousand fish passage barriers, returned nearly twenty-five hundred miles of forest roads to their natural condition, and opened up nearly fifteen hundred miles of riparian salmonid habitat.

(3) The legislature further finds that Washington's forests naturally create habitat for fish and wildlife, clean water, and carbon storage; all environmental benefits that are lost when land is converted out of working forestry into another use. In recognition of forestry's benefits, the international panel on climate change has reported that a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber, wood products, or energy from the forest, will generate the largest sustained carbon mitigation benefit.

(4) The legislature further finds that the forest products industry is a seven-billion dollar industry, making it Washington's second largest manufacturing industry. The forest products industry alone provides nearly forty-five thousand direct jobs and one hundred sixty-two thousand indirect jobs, many located in rural areas.

(5) The legislature further finds that working forests help generate wealth through recreation and tourism, the retention and creation of green jobs, and through the production of wood products and energy, a finding supported by the United States secretary of agriculture." [2010 c 187 § 1.]

Findings—Intent—Scope of chapter 14, Laws of 2008—2008 c 14: See RCW 70A.45.005 and 70A.45.900.

43.330.320 Obtaining energy efficiency services—Awarding grants to financial institutions—Credit enhancements. (1) The department must: (a) Establish a process to award grants on a competitive basis to provide grants to financial institutions for the purpose of creating credit enhancements, such as loan loss reserve funds as specified in RCW 43.330.330 and 43.330.350, and consumer financial products and services that will be used to obtain energy efficiency services; and (b) develop criteria, in consultation with the department of financial institutions, regarding the extent to which funds will be provided for the purposes of credit enhancements and set forth principles for accountability for financial institutions receiving funding for credit enhancements.

(2) The department must:

(a) Give priority to financial institutions that provide both consumer financial products or services and direct outreach;

(b) Approve any financing mechanisms offered by local municipalities under RCW 43.330.350; and

(c) Require any financial institution or other entity receiving funding for credit enhancements to:

(i) Provide books, accounts, and other records in such a form and manner as the department may require;

(ii) Provide an estimate of projected loan losses; and

(iii) Provide the financial institution's plan to manage loan loss risks, including the rationale for sizing a loan loss reserve and the use of other credit enhancements, as applicable. [2009 c 379 § 205.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70A.50.010.

43.330.330 Funding energy efficiency improvements—Risk reduction mechanisms—Legislative intent.

(1) The legislature finds that the creation and use of risk reduction mechanisms will promote greater involvement of local financial institutions and other financing mechanisms in funding energy efficiency improvements and will achieve greater leverage of state and federal dollars. Risk reduction mechanisms will allow financial institutions to lend to a broader pool of applicants on more attractive terms, such as potentially lower rates and longer loan terms. Placing a portion of funds in long-term risk reduction mechanisms will support a sustained level of energy efficiency investment by financial institutions while providing funding to projects quickly.

(2) It is the intent of the legislature to leverage new federal funding aimed at promoting energy efficiency projects, improving energy efficiency, and increasing family-wage jobs. To this end, the legislature intends to invest a portion of all federal funding, subject to federal requirements, for energy efficiency projects in financial mechanisms that will provide for maximum leverage of financing. [2009 c 379 § 206.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70A.50.010.

43.330.340 Appliance efficiency rebate program.

The department may create an appliance efficiency rebate program with available funds from the energy efficient appli-

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ances rebate program authorized under the federal energy policy act of 2005 (P.L. 109-58). [2009 c 379 § 207.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70A.50.010.

43.330.350 Use of moneys by local municipalities to leverage financing for energy efficiency projects. (1) Local municipalities receiving federal stimulus moneys through the federal energy efficiency and conservation block grant program or state energy program are authorized to use those funds, subject to federal requirements, to establish loan loss reserves or toward risk reduction mechanisms, such as loan loss reserves, to leverage financing for energy efficiency projects.

(2) Interest rate subsidies, financing transaction cost subsidies, capital grants to energy users, and other forms of grants and incentives that support financing energy efficiency projects are authorized uses of federal energy efficiency funding.

(3) Financing mechanisms offered by local municipalities under this section must conform to all applicable state and federal rules and regulations. [2009 c 379 § 208.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70A.50.010.

43.330.360 Findings—Involvement of state bond authorities in financing energy efficiency projects. (1)

The legislature finds that the state bond authorities have capacities that can be applied to financing energy efficiency projects for their respective eligible borrowers: Washington economic development finance authority for industry; Washington state housing finance commission for single-family and multifamily housing, commercial properties, agricultural properties, and nonprofit facilities; Washington higher education facilities authority for private, nonprofit higher education; and Washington health care facilities authority for hospitals and all types of health clinics.

(2)(a) Subject to federal requirements, the state bond authorities may accept and administer an allocation of the state's share of the federal energy efficiency funding for designing energy efficiency finance loan products and for developing and operating energy efficiency finance programs. The state bond authorities shall coordinate with the department on the design of the bond authorities' program.

(b) The department may make allocations of the federal funding to the state bond authorities and may direct and administer funding for outreach, marketing, and delivery of energy services to support the programs by the state bond authorities.

(c) The legislature authorizes a portion of the federal energy efficiency funds to be used by the state bond authorities for credit enhancements and reserves for such programs.

(3) The Washington state housing finance commission may:

(a) Issue revenue bonds as the term "bond" is defined in RCW 43.180.020 for the purpose of financing loans for energy efficiency and renewable energy improvement projects in accordance with RCW 43.180.150;

(b) Establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans

made or acquired by the commission and funded from the proceeds of federal funds or commission bonds; and

(c) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with chapter 43.180 RCW to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies. [2009 c 379 § 209.]

Finding—Intent—Effective date—2009 c 379: See notes following RCW 70A.50.010.

43.330.365 Electric vehicle incentive account. The electric vehicle incentive account is created in the state treasury. Revenues to the account shall consist of appropriations and transfers by the legislature and all other moneys directed for deposit into the account. Moneys in the account may only be spent after appropriation. Expenditures from the account may be used for programs and incentives that promote the purchase or conversion to alternative fuel vehicles to further state climate goals under RCW 70A.45.020 and environmental justice goals under 70A.02 RCW, including but not limited to:

(1) Income-qualified grant programs to retire vehicles and replace them with alternative fuel vehicles;

(2) Programs to provide grants for the installation of electric vehicle infrastructure to support electric vehicle adoption; and

(3) Programs to conduct research and public outreach regarding adoption of alternative fuel vehicles. [2022 c 297 § 948.]

Effective date—2022 c 297: See note following RCW 43.79.565.

43.330.370 Evergreen jobs initiative. The Washington state evergreen jobs initiative is established as a comprehensive green economy jobs growth initiative with the goals of:

(1) Creating fifteen thousand new green economy jobs by 2020, with a target of thirty percent of those jobs going to veterans, members of the national guard, and low-income and disadvantaged populations;

(2) Capturing and deploying federal funds in a focused, effective, and coordinated manner;

(3) Preparing the state's workforce to take full advantage of green economy job opportunities and to meet the recruitment and training needs of industry and small businesses;

(4) Attracting private sector investment that will create new and expand existing jobs, with an emphasis on services and products that have a high economic or environmental impact and can be exported domestically and internationally;

(5) Making Washington state a net exporter of green industry products and services, with special attention to renewable energy technology and components;

(6) Empowering local agencies and organizations to recruit green economy businesses and jobs into the state by providing state support and assistance;

(7) Capitalizing on existing partnership agreements in the Washington works plan and the Washington workforce compact; and

(8) Operating in concert with the fourteen guiding principles identified by the department in its Washington state's green economy strategic framework. [2009 c 536 § 2.]

Additional notes found at www.leg.wa.gov

43.330.375 Evergreen jobs efforts—Coordination and support—Identification of technologies, barriers, and strategies—Outreach efforts—Performance reports.

(1) The department and the workforce board must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize through both support and outreach efforts, projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify barriers to the growth of green jobs in traditional industries such as the forest products industry;

(h) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage

of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment of funds and support to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

(i) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

(j) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;

(k) Develop targeting criteria for existing investments that are consistent with the goals of this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(l) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection (1)(h) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(3) The definitions, designations, and results of the employment security department's broader labor market

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research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the student achievement council. [2014 c 112 § 118; 2012 c 229 § 591; 2010 c 187 § 3; 2009 c 536 § 4.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

Findings—2010 c 187: See note following RCW 43.330.310.

Additional notes found at www.leg.wa.gov

43.330.400 Broadband mapping account—Federal broadband data improvement act funding—Coordination of broadband mapping activities. (1) The broadband mapping account is established in the custody of the state treasurer. The department shall deposit into the account such funds received from legislative appropriation, federal funding, and donated funds from private and public sources. Expenditures from the account may be used only for the purposes of RCW 43.330.403 through 43.330.409. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department is the single eligible entity in the state for purposes of the federal broadband mapping activities.

(3) Federal funding received by the department for broadband mapping activities must be used in accordance with any federal requirements and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state.

(4) The department shall consult with the office of financial management and the utilities and transportation commission in coordinating broadband mapping activities. In carrying out any broadband mapping activities, the provisions of P.L. 110-385, Title I, regarding trade secrets, commercial or financial information, and privileged or confidential information submitted by the federal communications commission or a broadband provider are deemed to encompass the consulted agencies. [2011 1st sp.s. c 43 § 603; 2009 c 509 § 2. Formerly RCW 43.105.370.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—2009 c 509: "(1) The legislature finds that the deployment and adoption of high-speed internet services and technology advancements enhance economic development and public safety for the state's communities. Such deployment also offers improved health care, access to consumer and legal services, increased educational and civic participation opportunities, and a better quality of life for the state's residents. The legislature further finds that improvements in the deployment and adoption of high-speed internet services and the strategic inclusion of technology advancements and technology education are critical to ensuring that Washington remains competitive and continues to provide a skilled workforce, attract businesses, and stimulate job growth.

(2) The legislature intends to support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology. The legislature further intends to ensure that all Washington citizens, businesses, schools, and organizations are able to obtain and utilize broadband fully, regardless of location, economic status, literacy level, age, disability, structure, or size. In addition, the legislature intends that a statewide assessment of the availability, location, service levels, and other characteristics of

high-speed internet services and other advanced telecommunications services in the state be conducted.

(3) In recognition of the importance of broadband deployment and adoption to the economy, health, safety, and welfare of the people of Washington, it is the purpose of this act to make high-speed internet service more readily available throughout the state, especially in areas and for populations with a low utilization rate." [2009 c 509 § 1.]

Additional notes found at www.leg.wa.gov

43.330.403 Reporting availability of high-speed internet—Survey of high-speed internet infrastructure owned or leased by state agencies—Geographic information system map—Rules. (1) Subject to the availability of federal or state funding, the department may:

(a) Develop an interactive website to allow residents to self-report whether high-speed internet is available at their home or residence and at what speed; and

(b) Conduct a detailed survey of all high-speed internet infrastructure owned or leased by state agencies and create a geographic information system map of all high-speed internet infrastructure owned or leased by the state.

(2) State agencies responding to a survey request from the department under subsection (1)(b) of this section shall respond in a reasonable and timely manner, not to exceed one hundred twenty days. The department shall request of state agencies, at a minimum:

(a) The total bandwidth of high-speed internet infrastructure owned or leased;

(b) The cost of maintaining that high-speed internet infrastructure, if owned, or the price paid for the high-speed internet infrastructure, if leased; and

(c) The leasing entity, if applicable.

(3) The department may adopt rules as necessary to carry out the provisions of this section.

(4) For purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency. [2011 1st sp.s. c 43 § 604; 2009 c 509 § 3. Formerly RCW 43.105.372.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

43.330.406 Procurement of geographic information system map—Accountability and oversight structure—Application of public records act. (1) The department is authorized, through a competitive bidding process, to procure on behalf of the state a geographic information system map detailing high-speed internet infrastructure, service availability, and adoption. This geographic information system map may include adoption information, availability information, type of high-speed internet deployment technology, and available speed tiers for high-speed internet based on any publicly available data.

(2) The department may procure this map either by:

(a) Contracting for and purchasing a completed map or updates to a map from a third party; or

(b) Working directly with the federal communications commission to accept publicly available data.

(3) The department shall establish an accountability and oversight structure to ensure that there is transparency in the bidding and contracting process and full financial and techni-

cal accountability for any information or actions taken by a third-party contractor creating this map.

(4) In contracting for purchase of the map or updates to a map in subsection (2)(a) of this section, the department may take no action, nor impose any condition on the third party, that causes any record submitted by a public or private broadband service provider to the third party to meet the standard of a public record as defined in RCW 42.56.010. This prohibition does not apply to any records delivered to the department by the third party as a component of the map. For the purpose of RCW 42.56.010(3), the purchase by the department of a completed map or updates to a map may not be deemed use or ownership by the department of the underlying information used by the third party to complete the map.

(5) Data or information that is publicly available as of July 1, 2009, will not cease to be publicly available due to any provision of chapter 509, Laws of 2009. [2011 1st sp.s. c 43 § 605; 2009 c 509 § 4. Formerly RCW 43.105.374.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

43.330.409 Broadband mapping, deployment, and adoption—Reports. (1) The department, in coordination with the utilities and transportation commission, and such advisors as the department chooses, may prepare regular reports that identify the following:

(a) The geographic areas of greatest priority for the deployment of advanced telecommunications infrastructure in the state;

(b) A detailed explanation of how any amount of funding received from the federal government for the purposes of broadband mapping, deployment, and adoption will be or have been used; and

(c) A determination of how nonfederal sources may be utilized to achieve the purposes of broadband mapping, deployment, and adoption activities in the state.

(2) To the greatest extent possible, the initial report should be based upon the information identified in the geographic system maps developed under the requirements of this chapter.

(3) The initial report should be delivered to the appropriate committees of the legislature as soon as feasible, but no later than January 18, 2010.

(4) Any future reports prepared by the department based upon the requirements of subsection (1) of this section should be delivered to the appropriate committees of the legislature by January 15th of each year. [2011 1st sp.s. c 43 § 606; 2009 c 509 § 5. Formerly RCW 43.105.376.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

43.330.412 Community technology opportunity program—Administration—Grant program. (Effective until July 1, 2023.) The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the depart-

ment. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the community technology opportunity program the director must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the director establishes.

(3) The director may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The director must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes. [2011 1st sp.s. c 43 § 607; 2009 c 509 § 6; 2008 c 262 § 6. Formerly RCW 43.105.380, 28B.32.010.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

43.330.412 Digital equity opportunity program—Administration—Grant program. (Effective July 1, 2023.)

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The digital equity opportunity program is created to advance broadband adoption and digital equity and inclusion throughout the state. The digital equity opportunity program must be administered by the department. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the digital equity opportunity program the director must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to digital equity programs throughout the state and additional support for the purpose of:

(i) Evaluating the impact and efficacy of activities supported by grants awarded under the covered programs; and

(ii) Developing, cataloging, disseminating, and promoting the exchange of best practices, with respect to and independent of the covered programs, in order to achieve digital equity. After July 1, 2024, no more than 15 percent of funds received by the director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to advance digital equity and digital inclusion by providing:

(i) Training and skill-building opportunities;

(ii) Access to hardware and software, including online service costs such as application and software;

(iii) Internet connectivity;

(iv) Digital media literacy and cybersecurity training;

(v) Assistance in the adoption of information and communication technologies for low-income and underserved populations of the state;

(vi) Development of locally relevant content and delivery of vital services through technology; and

(vii) Technical support;

(c) Collaborate with broadband stakeholders, including broadband action teams across the state, in implementing the program as provided under this subsection; and

(d) For the purposes of this section, include wireless meshed network technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(f) Comply with such other requirements as the director establishes.

(3) The digital equity forum shall review grant applications and provide input to the director regarding the prioritization of applications in awarding grants among eligible applicants under the program.

(4) In awarding grants under the digital equity opportunity program created in this section, the director must:

(a) Consider the input provided by the digital equity forum, as provided in subsection (3) of this section, in awarding grants; and

(b) Consider the extent to which the mix of grants awarded would increase in the number of prekindergarten through 12th grade students gaining access to greater levels of digital inclusion as a factor in awarding grants.

(5) The director may use no more than 10 percent of funds received for the digital equity opportunity program to cover administrative expenses.

(6) The director must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes. [2022 c 265 § 304; 2011 1st sp.s. c 43 § 607; 2009 c 509 § 6; 2008 c 262 § 6. Formerly RCW 43.105.380, 28B.32.010.]

Effective date—2022 c 265 §§ 101, 102, 301-305, and 401: See note following RCW 43.330.530.

Short title—Findings—Intent—2022 c 265: See notes following RCW 43.330.539.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

43.330.421 Advisory group on digital inclusion and technology planning. Subject to the availability of federal or state funding, the department may convene an advisory group on digital inclusion and technology planning. The advisory group may include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions, public health institutions, public housing entities, and local government and other governmental entities that are engaged in community technology activities. [2011 1st sp.s. c 43 § 610; 2009 c 509 § 10. Formerly RCW 43.105.400.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Purpose—Effective date—2009 c 509: See notes following RCW 43.330.400.

43.330.425 Advisory committee on permanent supportive housing. (1) An advisory committee on permanent supportive housing is established with members as provided in this section.

(a) One representative of the aging and long-term support administration at the department of social and health services;

(b) One representative of the health care authority;

(c) One representative of the developmental disabilities administration;

(d) One representative from a city that invests resources in permanent supportive housing;

(e) One representative from a city with the largest number of chronically homeless households;

(f) One representative from a county that invests resources in permanent supportive housing;

(g) One representative from a county with the largest number of chronically homeless households;

(h) One representative of public housing authorities as created under chapter 35.82 RCW;

(i) One permanent supportive housing service provider;

(j) One permanent supportive housing developer;

(k) One permanent supportive housing building operator;

(l) One permanent supportive housing resident;

(m) One permanent supportive housing researcher;

(n) One permanent supportive housing advocate;

(o) One representative from the behavioral health sector;

(p) One representative of the health care sector; and

(q) One representative of each of the following permanent supportive housing populations:

(i) Single adults;

(ii) Older adults over age 55;

(iii) Families with children;

(iv) The American Indian and Alaska Native community;

(v) Communities of color;

(vi) The LGBTQIA+ community;

(vii) The intellectual and developmental disability community;

(viii) The mental health disability community;

(ix) The substance use disorder community; and

(x) The physical disability community.

(2)(a) The members of the advisory committee shall be appointed by the director. Members must reflect the geographic, racial, and ethnic diversity of the state of Washington and be inclusive of historically marginalized communities.

(b) The members of the advisory committee must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(3) The advisory committee shall:

(a) Select a chair from among its membership;

(b) Meet quarterly;

(c) Provide guidance and recommendations on the administration of permanent supportive housing resources managed by the department, including recommendations to ensure alignment of capital, services, and operating investments and fidelity with the provision of permanent supportive housing as defined in RCW 36.70A.030; and

(d) Until December 31, 2027, report its recommendations to enhance the coordination and availability of permanent supportive housing to the appropriate committees of the legislature and the governor by December 1st of each year.

(4) The director and the director of the office of supportive housing shall regularly consult with the advisory committee. The department shall convene the advisory committee for its initial meeting no later than November 1, 2022. The advisory committee shall be staffed by the department. [2022 c 266 § 2.]

Findings—Intent—2022 c 266: "The legislature recognizes permanent supportive housing as an evidence-based practice to ending the cycle of chronic homelessness and creating affordable housing for people living with

behavioral health conditions, other disabling conditions, and extremely low incomes. The legislature finds that as greater investment has been allocated for permanent supportive housing capital, operations, maintenance, and services in order to meet the need in communities across the state, greater coordination of state and local resources is required to ensure these resources are being leveraged effectively so that the maximum number of high quality permanent supportive housing units are created each year. Therefore, the legislature intends to create a permanent supportive housing advisory committee to provide advice, recommendations, and stakeholder engagement of resource coordination to bring high quality permanent supportive housing to scale as efficiently as possible and to add a permanent supportive housing representative to the affordable housing advisory board." [2022 c 266 § 1.]

43.330.430 Developmental disabilities endowment—

Definitions. The definitions in this section apply throughout *RCW 43.330.200 through 43.330.230.

(1) "Developmental disability" has the meaning in **RCW 71A.10.020(3).

(2) "Developmental disabilities endowment trust fund" means the fund established in the custody of the state treasurer in *RCW 43.330.200, comprised of private, public, or private and public sources, to finance services for persons with developmental disabilities. All moneys in the fund, all property and rights purchased from the fund, and all income attributable to the fund, shall be held in trust by the state investment board, as provided in RCW 43.33A.030, for the exclusive benefit of fund beneficiaries. The principal and interest of the endowment fund must be maintained until such time as the governing board policy specifies except for the costs and expenses of the state treasurer and the state investment board otherwise provided for in chapter 120, Laws of 2000.

(3) "Governing board" means the developmental disabilities endowment governing board in *RCW 43.330.205.

(4) "Individual trust account" means accounts established within the endowment trust fund for each individual named beneficiary for the benefit of whom contributions have been made to the fund. The money in each of the individual accounts is held in trust as provided for in subsection (2) of this section, and shall not be considered state funds or revenues of the state. The governing board serves as administrator, manager, and recordkeeper for the individual trust accounts for the benefit of the individual beneficiaries. The policies governing the disbursements, and the qualifying services for the trust accounts, shall be established by the governing board. Individual trust accounts are separate accounts within the developmental disabilities endowment trust fund, and are invested for the beneficiaries through the endowment trust fund. [2000 c 120 § 2. Formerly RCW 43.70.730, 43.330.195.]

Reviser's note: *(1) RCW 43.330.200 through 43.330.230 were recodified as RCW 43.70.731 through 43.70.736, respectively, pursuant to 2010 c 271 § 203. RCW 43.70.731 through 43.70.736 were subsequently recodified as RCW 43.330.431 through 43.330.436, respectively, pursuant to 2012 c 197 § 4.

** (2) RCW 71A.10.020 was amended by 2011 1st sp.s. c 30 § 3, changing subsection (3) to subsection (4). RCW 71A.10.020 was subsequently amended by 2014 c 139 § 2, changing subsection (4) to subsection (5). RCW 71A.10.020 was subsequently amended by 2022 c 277 § 2, changing subsection (5) to subsection (6).

43.330.431 Developmental disabilities endowment—

Trust fund. (1) The developmental disabilities endowment trust fund is created in the custody of the state treasurer. Expenditures from the fund may be used only for the pur-

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poses of the developmental disabilities endowment established under this chapter, except for expenses of the state investment board and the state treasurer as specified in subsection (2) of this section. Only the developmental disabilities endowment governing board or the board's designee may authorize expenditures from the fund. The fund shall retain its interest earnings in accordance with RCW 43.79A.040.

(2) The developmental disabilities endowment governing board shall deposit in the fund all money received for the program, including state appropriations and private contributions. With the exception of investment and operating costs associated with the investment of money by the investment board paid under RCW 43.33A.160 and 43.84.160 and the expenses and operating costs of the state treasurer paid under RCW 43.08.190 and 43.79A.040, the fund shall be credited with all investment income earned by the fund. Disbursements from the fund are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. However, money used for program administration by the department or the governing board is subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures. [2000 c 120 § 3; 1999 c 384 § 2. Formerly RCW 43.70.731, 43.330.200.]

Intent—1999 c 384: "The legislature recognizes that the main and most enduring support for persons with developmental disabilities, along with public resources, is their immediate and extended families. The legislature recognizes that these families are searching for ways to provide for the long-term continuing care of their disabled family member when the family can no longer provide that care. It is the intent of the legislature to encourage and assist families to engage in long-range financial planning and to contribute to the lifetime care of their disabled family member. To further these objectives, this chapter is enacted to finance lifetime services and supports for persons with developmental disabilities through an endowment funded jointly by the investment of public funds and dedicated family contributions.

The establishment of this endowment is not intended to diminish the state's responsibility for funding services currently available to future endowment participants, subject to available funding, nor is it the intent of the legislature, by the creation of this public/private endowment, to impose additional, unintended financial liabilities on the public." [2000 c 120 § 1; 1999 c 384 § 1.]

Additional notes found at www.leg.wa.gov

43.330.432 Developmental disabilities endowment— **Authority of state investment board—Authority of governing board.**

(1) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the developmental disabilities endowment trust fund. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the fund.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the investment board, money in the fund may be commingled for investment with other funds subject to investment by the board.

(4) The authority to establish all policies relating to the fund, other than the investment policies as set forth in subsections (1) through (3) of this section, resides with the governing board acting in accordance with the principles set forth in *RCW 43.330.220. With the exception of expenses of the

state treasurer in *RCW 43.330.200 and the investment board set forth in subsection (1) of this section, disbursements from the fund shall be made only on the authorization of the governing board or the board's designee, and money in the fund may be spent only for the purposes of the developmental disabilities endowment program as specified in this chapter.

(5) The investment board shall routinely consult and communicate with the governing board on the investment policy, earnings of the trust, and related needs of the program. [2000 c 120 § 4. Formerly RCW 43.70.732, 43.330.205.]

***Reviser's note:** RCW 43.330.220 and 43.330.200 were recodified as RCW 43.70.734 and 43.70.731, respectively, pursuant to 2010 c 271 § 203. RCW 43.70.734 and 43.70.731 were subsequently recodified as RCW 43.330.434 and 43.330.431, respectively, pursuant to 2012 c 197 § 4.

43.330.433 Developmental disabilities endowment—Governing board—Liability of governing board and state investment board. The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the director of the department shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and

the state investment board, respectively, may purchase liability insurance for members. [2012 c 197 § 1; 2010 c 271 § 201; 2009 c 565 § 11; 2000 c 120 § 5; 1999 c 384 § 4. Formerly RCW 43.70.733, 43.330.210.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Intent—Captions not law—1999 c 384: See notes following RCW 43.330.431.

43.330.434 Developmental disabilities endowment—Endowment principles. The design, implementation, and administration of the developmental disabilities endowment shall be governed by the following principles:

(1) The design and operation of the endowment should reward families who set aside resources for their child's future care and provide incentives for continued caregiving by the family.

(2) The endowment should encourage financial planning and reward caregiving by a broad range of families, not just those who have substantial financial resources.

(3) Families should not feel compelled to contribute to the endowment in order to meet the needs of continuing care for their child.

(4) All families should have equal access to developmental disabilities services not funded through the endowment regardless of whether they contribute to the endowment.

(5) Services funded through the endowment should be stable, ongoing, of reasonable quality, and respectful of individual and family preferences.

(6) Endowment resources should be expended economically in order to benefit as many families as possible.

(7) Endowment resources should be managed prudently so that families can be confident that their agreement with the endowment on behalf of their child will be honored.

(8) The private financial contribution on behalf of each person receiving services from the endowment shall be at least equal to the state's contribution to the endowment.

(9) In order to be matched with funding from the state's contribution to the endowment, the private contribution on behalf of a beneficiary must be sufficient to support the beneficiary's approved service plan for a significant portion of the beneficiary's anticipated remaining lifetime.

(10) The rate that state appropriations to the endowment are used to match private contributions shall be such that each legislative appropriation to the developmental disabilities endowment trust fund, including principal and investment income, is not depleted in a period of less than five years.

(11) Private contributions made on behalf of a particular individual, and the associated state match, shall only be used for services provided upon that person's behalf.

(12) State funds contributed to the developmental disabilities endowment trust fund are to support the individual trust accounts established by individual private contributions made by families or other interested persons for named individual beneficiaries.

(13) The governing board shall explore methods to solicit private donations. The governing board shall explore mechanisms to support individuals with developmental disabilities who do not have individual private contributions made on their behalf. The governing board shall establish policies for the use of any private donations.

(14) Types of services funded by money managed through the developmental disabilities endowment trust fund shall be approved by the governing board or its designee. [2000 c 120 § 6; 1999 c 384 § 5. Formerly RCW 43.70.734, 43.330.220.]

Intent—Captions not law—1999 c 384: See notes following RCW 43.330.431.

43.330.435 Developmental disabilities endowment—Development of operating plan—Elements. To the extent funds are appropriated for this purpose, the governing board shall contract with an appropriate organization for the development of a proposed operating plan for the developmental disabilities endowment program. The proposed operating plan shall be consistent with the endowment principles specified in *RCW 43.330.220. The plan shall address at least the following elements:

(1) The recommended types of services to be available through the endowment program and their projected average costs per beneficiary;

(2) An assessment of the number of people likely to apply for participation in the endowment under alternative rates of matching funds, minimum service year requirements, and contribution timing approaches;

(3) An actuarial analysis of the number of disabled beneficiaries who are likely to be supported under alternative levels of public contribution to the endowment, and the length of time the beneficiaries are likely to be served, under alternative rates of matching funds, minimum service year requirements, and contribution timing approaches;

(4) Recommended eligibility criteria for participation in the endowment program;

(5) Recommended policies regarding withdrawal of private contributions from the endowment in cases of movement out of state, death of the beneficiary, or other circumstances;

(6) Recommended matching rate of public and private contributions and, for each beneficiary, the maximum annual and lifetime amount of private contributions eligible for public matching funds;

(7) The recommended minimum years of service on behalf of a beneficiary that must be supported by private contributions in order for the contributions to qualify for public matching funds from the endowment;

(8) The recommended schedule according to which lump sum or periodic private contributions should be made to the endowment in order to qualify for public matching funds;

(9) A recommended program for educating families about the endowment, and about planning for their child's long-term future; and

(10) Recommended criteria and procedure for selecting an organization or organizations to administer the developmental disabilities endowment program, and projected administrative costs. [2000 c 120 § 7. Formerly RCW 43.70.735, 43.330.225.]

***Reviser's note:** RCW 43.330.220 was recodified as RCW 43.70.734 pursuant to 2010 c 271 § 203. RCW 43.70.734 was subsequently recodified as RCW 43.330.434 pursuant to 2012 c 197 § 4.

43.330.436 Developmental disabilities endowment—Program implementation and administration. Based on the proposed operating plan under *RCW 43.330.225, and to

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the extent funds are appropriated for this purpose, the developmental disabilities endowment governing board shall implement and administer, or contract for the administration of, the developmental disabilities endowment program under the principles specified in *RCW 43.330.220. By December 1, 2000, and prior to implementation, the final program design shall be submitted to the appropriate committees of the legislature.

The secretary of the department of social and health services shall seek to maximize federal reimbursement and matching funds for expenditures made under the endowment program, and shall seek waivers from federal requirements as necessary for the receipt of federal funds.

The governing board may receive gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the endowment program and may expend the gifts, grants, and endowments according to their terms. [2000 c 120 § 8; 1999 c 384 § 7. Formerly RCW 43.70.736, 43.330.230.]

***Reviser's note:** RCW 43.330.225 and 43.330.220 were recodified as RCW 43.70.735 and 43.70.734, respectively, pursuant to 2010 c 271 § 203. RCW 43.70.735 and 43.70.734 were subsequently recodified as RCW 43.330.435 and 43.330.434, respectively, pursuant to 2012 c 197 § 4.

Intent—Captions not law—1999 c 384: See notes following RCW 43.330.431.

43.330.437 Developmental disabilities endowment—Rules. The department shall adopt rules for the implementation of policies established by the governing board in *RCW 43.70.731 through 43.70.736. Such rules will be consistent with those statutes and chapter 34.05 RCW. [2010 c 271 § 202; 2009 c 565 § 12; 2000 c 120 § 9. Formerly RCW 43.70.737, 43.330.240.]

***Reviser's note:** RCW 43.70.731 through 43.70.736 were recodified as RCW 43.330.431 through 43.330.436, respectively, pursuant to 2012 c 197 § 4.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.440 Multijurisdictional regulatory streamlining projects—Establishment—Reports. (1) The department, in collaboration with the office of regulatory assistance and the office of accountability and performance, must conduct multijurisdictional regulatory streamlining projects that each impact a specific industry sector or subsector within a specific geographical location. Planning for an initial pilot project must begin by September 1, 2013, and the initial pilot project must be underway by December 31, 2013. One or more projects must be implemented in each subsequent calendar year through 2019.

(2) The department must establish and implement a competitive process and select a minimum of one applicant comprised of a public-private partnership for participation in each project. The initial pilot project must focus on the manufacturing sector. The department, in consultation with the economic development commission, must determine the sectors for subsequent projects. The criteria to be used to select projects must include:

(a) Evidence of strong business commitment to the project;

(b) Evidence of strong commitment by the local government jurisdictions where the project is located to allocate necessary staff to the project and to streamline laws, rules, and administrative process requirements both within their jurisdictions and collaboratively across jurisdictions;

(c) Willingness to apply lean principles and tools to streamline the business regulatory experience;

(d) Identification of a lead partner capable of providing project management and coordination of partners;

(e) Support of the stakeholders necessary to implement the project;

(f) A plan and capacity to complete the project within the time frame; and

(g) A minimum of fifty percent match must be provided from project partners. The match may be cash, in-kind, or a combination of cash and in-kind.

(3) The department is encouraged to collaborate with nonprofit industry organizations, the private sector, foundations, and other interested entities to successfully complete each project.

(4) The department must pursue opportunities for non-state funding as the match to the fifty percent or more provided by project partners. A maximum of fifty thousand dollars of state funds may be used for a project.

(5) The department may contract with a third party for expertise and facilitation.

(6) All state agencies with regulatory requirements that impact the project's industry sector must participate.

(7) The state agencies, local jurisdictions, business partners, and other participants must jointly:

(a) Develop a project plan to conduct a cross-jurisdictional review process;

(b) Identify and review all laws, rules, and administrative processes and requirements pertaining to the selected sector;

(c) Apply specific criteria to evaluate the extent to which the laws, rules, and administrative processes and requirements provide for consistent, clear, and efficient customer experiences while continuing to maintain public health, safety, and environmental standards;

(d) Develop an implementation plan and schedule that identifies priority streamlining actions;

(e) Present their recommendations to the department for comment and endorsement; and

(f) Present their recommendations to the Washington state economic development commission for comment, endorsement, and evaluation.

(8) The department must document and distribute the streamlined laws, rules, processes, and other potentially replicable information, derived from the projects to the association of Washington cities and Washington state association of counties for distribution to their membership.

(9) The department must brief the economic development committees of the legislature by January 15, 2014, on the status of the initial pilot project, and must submit a report on the outcomes of the projects to the economic development committees of the legislature by January 15th of each calendar year, from 2015 through 2020. The department must include in the reports any streamlining recommendations identified in the projects that require statutory changes for implementation and any potentially replicable models,

approaches, and tools that could be applied to other sectors and geographical areas. [2013 c 324 § 2.]

Findings—Intent—2013 c 324: "(1) The legislature finds that: Since 2010, the department of commerce and the office of regulatory assistance have convened and coordinated a number of cross-agency collaborative regulatory streamlining efforts focused on improving the regulatory experience for small businesses, while maintaining public health and safety; the department of commerce has established efficient and effective regulation as one of its four global priorities to support the mission to grow and improve jobs; the state auditor's office issued a regulatory performance audit in 2012 identifying many agency actions that can also improve the business community's ability to comply with regulatory requirements; and the Washington state economic development commission's 2012 comprehensive statewide strategy emphasized the need for smarter regulations in order to achieve long-term global competitiveness, prosperity, and economic opportunity for all the state's citizens.

(2) The legislature further finds that while individual agency streamlining activities result in improvements, businesses are required to interact with many state and local agencies, all with unique requirements, processes, forms, instructions, payment options, and electronic transaction capabilities. Cross-agency and cross-jurisdictional regulatory improvements are needed to meaningfully improve the overall business customer experience and ability to more easily understand and comply with requirements.

(3) Therefore, the legislature intends to authorize a business regulatory efficiency program administered by the department of commerce with the goal of providing an improved regulatory environment in Washington. By enhancing, simplifying, and better coordinating state and local regulatory processes for specific industry sectors, the amount of time it takes businesses to conduct their interactions with state government will decrease, compliance will increase, and businesses will have the opportunity to generate more revenue and create more jobs, thereby strengthening Washington's economy and overall global competitiveness." [2013 c 324 § 1.]

43.330.460 Washington achieving a better life experience program—Definitions. The definitions in this section apply throughout RCW 43.330.462 through 43.330.468 unless the context clearly indicates otherwise.

(1) "Eligible individual" means an individual eligible for the Washington achieving a better life experience program pursuant to section 529A of the federal internal revenue code of 1986, as amended.

(2) "Governing board" means the Washington achieving a better life experience program governing board in RCW 43.330.466.

(3) "Individual Washington achieving a better life experience program account" means an account established by or for an eligible individual and owned by the eligible individual pursuant to the Washington achieving a better life experience program. Any moneys placed in these accounts or achieving a better life experience program accounts established in other states shall not be counted as assets for purposes of state or local means tested program eligibility or levels of state means tested program eligibility.

(4) "Washington achieving a better life experience program" means a savings or investment program that establishes individual Washington achieving a better life experience program accounts pursuant to section 529A of the federal internal revenue code of 1986, as amended.

(5) "Washington achieving a better life experience program account" means the account created in RCW 43.330.462(1), to be used only for purposes of Washington achieving a better life experience program administration and operation. [2018 c 76 § 1; 2016 c 39 § 1.]

43.330.462 Washington achieving a better life experience program account. (1) The Washington achieving a better life experience program account is created in the cus-

tody of the state treasurer. Expenditures from the account may be used only for the purposes of administrative and operating expenses of the Washington achieving a better life experience program established under this chapter, except for expenses of the state investment board and the state treasurer as specified in this section.

(2) The account must be self-sustaining, include payments received from contributors to individual Washington achieving a better life experience program accounts, held in trust, and must be credited with income earned by the account, and contributions to individual Washington achieving a better life experience program accounts may be invested in self-directed investment options. All self-directed investment options must comply with section 529A of the federal internal revenue code of 1986, as amended. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. An appropriation is not required for expenditures.

(3) The assets of the account may be spent without appropriation for the purpose of making payments to individual Washington achieving a better life experience program account holders. Only the Washington achieving a better life experience governing board or the board's designee may authorize expenditures from the account.

(4) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore, the assets of the account are not considered state money, common cash, or revenue to the state. [2018 c 76 § 2; 2016 c 39 § 2.]

43.330.464 Washington achieving a better life experience program—Investment of moneys—Responsibility of state investment board, governing board, and investment manager.

(1) The governing board may elect to have the state investment board or investment manager invest the money in the Washington achieving a better life experience program account. If the governing board so elects, the state investment board created in RCW 43.33A.020 or the investment manager has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the Washington achieving a better life experience program account. All investment and operating costs associated with the investment of money by the state investment board must be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money must be retained by the account.

(2)(a) After consultation with the governing board, the state investment board or investment manager may elect to invest any self-directed accounts associated with the Washington achieving a better life experience program. The state investment board or investment manager has full authority to invest all self-directed investment moneys in accordance with this section and RCW 43.84.150. In carrying out this authority the state investment board or investment manager, after consultation with the governing board regarding any recommendations, shall provide a set of options for eligible individuals to choose from for self-directed investment. Any self-directed investment options provided must comply with section 529A of the federal internal revenue code of 1986, as amended.

(b) All investment and operating costs of the state investment board or investment manager associated with making

self-directed investments must be paid by eligible individuals and recovered under procedures agreed to by the governing board and the state investment board or investment manager consistent with the principles set forth in RCW 43.33A.160. All other expenses caused by self-directed investments must be paid by the eligible individual in accordance with rules established by the governing board. With the exception of these expenses, all earnings from self-directed investments shall accrue to the eligible individual's Washington achieving a better life experience program account.

(c)(i) The governing board shall keep or cause to be kept full and adequate accounts and records of each eligible individual Washington achieving a better life experience program account.

(ii) The governing board shall account for and report on the investment of self-directed assets or may enter into an agreement with the recordkeepers for such accounting and reporting under this chapter.

(iii) The governing board's duties related to eligible individual Washington achieving a better life experience program accounts include conducting[,] or causing to be conducted, the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iv) The governing board has sole responsibility for contracting with any recordkeepers for individual Washington achieving a better life experience program accounts and shall manage the performance of recordkeepers under those contracts.

(v) The governing board has sole responsibility for contracting with outside investment firms to provide investment management for the individual Washington achieving a better life experience program accounts and shall manage the performance of investment managers under those contracts.

(d) The governing board shall designate and define the terms of engagement for the custodial banks under authority that the state treasurer shall delegate pursuant to RCW 43.08.015 with the concurrence of the office of financial management.

(3) All investments made by the state investment board must be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policy established by the state investment board.

(4) As deemed appropriate by the state investment board, money in the account may be commingled for investment with other funds subject to investment by the state investment board.

(5) The authority to establish all policies relating to the account resides with the governing board acting to implement, design, and manage the Washington achieving a better life experience savings program that allows eligible individuals to create and maintain savings accounts. The moneys in the account may be spent only for the purposes of the Washington achieving a better life experience program.

(6) The investment manager shall routinely consult and communicate with the governing board on the investment policy, earnings of the account, and related needs of the program. [2018 c 76 § 3; 2016 c 39 § 3.]

43.330.466 Washington achieving a better life experience program—Established—Governing board—Administrative support—Colocation with developmental disabilities endowment governing board—Advisory committees—Interagency agreements—Limited liability. The Washington achieving a better life experience program is established and the governing board is authorized to design and administer the Washington achieving a better life experience program in the best interests of eligible individuals. To the extent funds are appropriated for this purpose, the director of the department shall provide staff and administrative support to the governing board. The department shall consult with the governing board regarding the staffing and administrative support needs before selecting any staff pursuant to this section. To the extent practicable, the Washington achieving a better life experience program must be colocated with the developmental disabilities endowment governing board established under this chapter.

(1) The governing board shall consist of seven members as follows:

- (a) The state treasurer or his or her designee;
- (b) The program director for the committee on advanced tuition payment established in RCW 28B.95.020;
- (c) The director of the office of financial management or his or her designee; and
- (d) Four members with demonstrated financial, legal, or disability program experience, appointed by the governor.

(2) The board shall select the chair of the board from among the seven board members identified in subsection (1) of this section.

(3) Members of the board who are appointed by the governor shall serve four-year terms and may be appointed for successive four-year terms at the discretion of the governor. The governor may stagger the terms of the appointed members.

(4) Members of the board must be compensated for their service under RCW 43.03.240 and must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The board shall meet periodically as specified by the chair, or a majority of the board, and may allow members to participate in meetings remotely.

(6) The board may appoint advisory committees to support the design or administration of the Washington achieving a better life experience program. Individuals serving on advisory committees must serve staggered terms and may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, but may not be compensated for their service.

(7) The board may execute interagency agreements that authorize other state agencies such as the committee on advanced tuition payment established in RCW 28B.95.020 to perform administrative functions necessary to carry out the Washington achieving a better life experience program.

(8) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the Washington achieving a better life experience program account or the individual program accounts. Neither of these two boards are liable for the action or inaction of the other.

(9) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board may purchase liability insurance for members. [2016 c 39 § 4.]

43.330.468 Washington achieving a better life experience program—Governing board authority. (1) The Washington achieving a better life experience program governing board is authorized to design, administer, manage, promote, and market the Washington achieving a better life experience program. The governing board is further authorized to contract with other organizations to administer, manage, promote, or market the Washington achieving a better life experience program. This program must allow for the creation of savings or investment accounts for eligible individuals with disabilities and the funds must be invested.

(2) The governing board may consult with the office of the state treasurer, the department of social and health services, and the state investment board in implementing the Washington achieving a better life experience program. The governing board is authorized to formulate and adopt any policies and rules necessary to implement and operate the Washington achieving a better life experience program consistent with chapter 39, Laws of 2016. The governing board is further authorized to establish a reasonable fee structure for Washington achieving a better life experience program account holders.

(3) The governing board shall take any action required to keep the program in compliance with requirements of this chapter and as required to qualify as a "qualified ABLE program" as defined in section 529A of the federal internal revenue code of 1986, as amended, or any rules and regulations adopted by the secretary of the United States treasury pursuant to that act. [2016 c 39 § 5.]

43.330.480 Low-income home rehabilitation revolving loan program—Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Home" means a single-family residential structure.
- (2) "Home rehabilitation" means residential repairs and improvements that address health, safety, and durability issues in existing housing in rural areas.
- (3) "Homeowner" means a person who owns and resides permanently in the home the person occupies.
- (4) "Low-income" means persons or households with income at or below two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.
- (5) "Rehabilitation agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for rehabilitating residences under this chapter and has been approved by the department.

(6) "Rural areas" means areas of Washington state defined as nonentitlement areas by the United States department of housing and urban development. [2017 c 285 § 1.]

43.330.482 Low-income home rehabilitation revolving loan program. (1) Subject to availability of amounts appropriated for this specific purpose, the low-income home rehabilitation revolving loan program is created within the department.

(2) The program must include the following elements:

(a) Eligible homeowners must be low-income and live in rural areas.

(b) Homeowners who are senior citizens, persons with disabilities, families with children five years old and younger, and veterans must receive priority for loans.

(c) The cost of the home rehabilitation must be the lesser of eighty percent of the assessed value of the property post rehabilitation or forty thousand dollars.

(d) The maximum amount that may be loaned under this program may not exceed the cost of the home rehabilitation as provided in (c) of this subsection, and must not result in total loans borrowed against the property equaling more than eighty percent of the assessed value.

(e) The interest rate of the loan must be equal to the previous calendar year's annual average consumer price index compiled by the bureau of labor statistics, United States department of labor.

(f) The department must allow participating homeowners to defer repayment of the loan principal and interest and any fees related to the administration or issuance of the loan. Any amounts deferred pursuant to this section become a lien in favor of the state. The lien is subordinate to liens for general taxes, amounts deferred under chapter 84.37 or 84.38 RCW, or special assessments as defined in RCW 84.38.020. The lien is also subordinate to the first deed of trust or the first mortgage on the real property but has priority over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded. The department must take such necessary action to file and perfect the state's lien. All amounts due under the loan become due and payable upon the sale of the home or upon change in ownership of the home.

(3) All moneys from repayments must be deposited into the low-income home rehabilitation revolving loan program account created in RCW 43.330.488.

(4) The department must adopt rules for implementation of this program. [2017 c 285 § 2.]

43.330.486 Low-income home rehabilitation revolving loan program—Contracts with rehabilitation agencies—Reports. (1) The department must contract with rehabilitation agencies to provide home rehabilitation to participating homeowners. Preference must be given to local agencies delivering programs and services with similar eligibility criteria.

(2) Any rehabilitation agency may charge participating homeowners an administrative fee of no more than seven percent of the home rehabilitation loan amount. The administrative fee must become a component of the total loan amount to be repaid by the participating homeowner.

(3) Any rehabilitation agency receiving funding under this section must report to the department at least quarterly, or in alignment with federal reporting, whichever is the greater frequency, the project costs and the number of homes

repaired or rehabilitated. The director must review the accuracy of these reports. [2017 c 285 § 3.]

43.330.488 Low-income home rehabilitation revolving loan program—Account. The low-income home rehabilitation revolving loan program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments of loans, private contributions, and all other sources must be deposited into the account. Expenditures from the account may be used only for the purposes of the low-income home rehabilitation revolving loan program created in RCW 43.330.482. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2017 c 285 § 4.]

43.330.500 Life sciences discovery fund. The life sciences discovery fund is created in the custody of the state treasurer. Only the department or the department's designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of RCW 43.330.502. Administrative expenses of the department, including staff support, are limited to actual costs incurred by the department in designating the nonprofit organization and in monitoring and collecting grant payback funds. Revenues to the fund consist of transfers made by the legislature from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480, moneys received pursuant to contribution agreements entered into pursuant to former RCW 43.350.030, moneys received from gifts, grants, and bequests, and interest earned on the fund. During the 2017-2019 fiscal biennium, the legislature may make appropriations from the fund to the department of commerce for providing life sciences research grants. The fund is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2019 c 83 § 4; 2018 c 299 § 924; 2016 sp.s. c 36 § 937; 2011 c 5 § 916; 2005 c 424 § 8. Formerly RCW 43.350.070.]

Effective date—2018 c 299: See note following RCW 43.41.433.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Additional notes found at www.leg.wa.gov

43.330.502 Life sciences discovery fund—Grants and contracts by department. (1) The department must contract with a statewide nonprofit organization to either provide services or make grants, or both, to entities pursuant to a contract to foster growth of the state's life science sector and to improve the health and economic well-being of its residents. The statewide nonprofit organization must be a statewide organization established with a primary mission of growing and sustaining the life science ecosystem within the state of Washington by supporting life science entrepreneurs and connecting life science researchers, and biopharmaceutical, medical device, digital health, and health information technology companies to the resources they need to accelerate life science innovation.

(2) The department may also contract with the organization selected under subsection (1) of this section to monitor and collect life science[s] discovery fund grant payback funds.

(3) Grant agreements made pursuant to subsection (1) of this section must specify deliverables to be provided by the recipient under the grant. The nonprofit organization selected pursuant to subsection (1) of this section must evaluate requests for funding by reference to factors such as: (a) The quality of the proposed research or project; (b) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, provide a substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (c) the potential for leveraging additional funding; (d) the potential to provide health care benefits or a benefit to human learning and development; (e) the potential to stimulate the health care delivery, biomedical manufacturing, and life sciences related employment in the state; (f) the ability to provide critical life science infrastructure; (g) the potential for attracting new investment or catalytic partnerships in the life sciences; (h) the geographic diversity of the grantees within Washington; and (i) evidence of public and private collaboration.

(4) Before conducting a significant grant competition, the nonprofit organization selected under subsection (1) of this section must adopt policies and procedures to facilitate the orderly process of grant application, review, and reward; and may create one or more advisory boards composed of scientists, industrialists, and others familiar with life sciences research to assist in grant evaluation. [2019 c 83 § 1.]

43.330.504 Life sciences discovery fund—Department powers. In carrying out its duties under RCW 43.330.502, the department may: (1) Sue and be sued on behalf of the life sciences discovery fund; (2) make and execute agreements, contracts, and other instruments, with any public or private person or entity; (3) employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as necessary; (4) establish such special funds, and controls on deposits to and disbursements from them; and (5) adopt rules for the implementation of chapter 83, Laws of 2019. [2019 c 83 § 2; 2005 c 424 § 5. Formerly RCW 43.350.040.]

43.330.506 Life sciences discovery fund—Limitation of liability. Members of the governing board of trustees of the life sciences discovery fund authority and persons acting on behalf of the authority, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under former chapter 43.350 RCW. The state, the life sciences discovery fund authority, and the department are not liable for any loss, damage, harm, or other consequence resulting directly or indirectly from grants made by the authority or by any life sciences research funded by such grants. [2019 c 83 § 3; 2005 c 424 § 6. Formerly RCW 43.350.050.]

43.330.510 Keep Washington working statewide work group. (1) A keep Washington working statewide work group is established within the department. The work group must:

(a) Develop strategies with private sector businesses, labor, and immigrant advocacy organizations to support current and future industries across the state;

(b) Conduct research on methods to strengthen career pathways for immigrants and create and enhance partnerships with projected growth industries;

(c) Support business and agriculture leadership, civic groups, government, and immigrant advocacy organizations in a statewide effort to provide predictability and stability to the workforce in the agriculture industry; and

(d) Recommend approaches to improve Washington's ability to attract and retain immigrant business owners that provide new business and trade opportunities.

(2) The work group must consist of eleven representatives, each serving a term of three years, representing members from geographically diverse immigrant advocacy groups, professional associations representing business, labor organizations with a statewide presence, agriculture and immigrant legal interests, faith-based community nonprofit organizations, legal advocacy groups focusing on immigration and criminal justice, academic institutions, and law enforcement. The terms of the members must be staggered. Members of the work group must select a chair from among the membership. The work group must meet at least four times a year and hold meetings in various locations throughout the state. Following each meeting, the work group must report on its status, including meeting minutes and a meeting summary to the department. The department must provide a report to the legislature annually.

(3) In addition to the duties and powers described in RCW 43.330.040, it is the director's duty to provide support to the work group.

(4) The definitions in RCW 43.17.420 apply to this section. [2019 c 440 § 3.]

Findings—Construction—Conflict with federal requirements—Effective date—2019 c 440: See notes following RCW 43.17.425.

43.330.515 Military installation incompatible development—Defense community compatibility account—Grants. (1) The defense community compatibility account is created in the state treasury. Revenues to the account consist of appropriations by the legislature, private contributions, and all other sources deposited in the account.

(2)(a) Expenditures from the account may only be used for grants to local governments or entities who have entered into an agreement with a military installation in the state under the United States department of defense readiness and environmental protection integration program for purposes of the programs established in subsection (3) of this section, including administrative expenses. Priority must be given for grant applications accompanied by express support from nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners. Only the director or the director's designee, may authorize expenditures. In order for the director or the director's designee to authorize an expenditure for the purpose identified in subsection (3) of this section, both federal and applicant funds must be committed to the same purposes or project as the state expenditure.

(b) An applicant must submit an application to the department in order to be eligible for funding under this subsection, and the department may not expend money on a project for which an applicant has not applied to the department to carry out the project.

(3)(a) The department may expend moneys from the account to provide state funds for projects identified by applicants to address incompatible development connected to Washington state military installations. For purposes of this section, "incompatible development" includes land development and military operations that impact the economy, environment, or quality of life opportunities for local communities.

(b) The department must evaluate and rank applications using objective criteria such as a community cost-benefit analysis, must consider recommendations from a citizens advisory commission comprised of representatives of community stakeholders impacted by military installations or their operations, must hold public hearings at least ninety days prior to any funding decision, and may consider the degree to which each project is compatible with the criteria established in the United States department of defense's readiness and environmental protection integration program.

(c) Eligible projects may include:

(i) Acquisition of real property or real property interests to eliminate an existing incompatible use;

(ii) Projects to jointly assist in the recovery or protection of endangered species dependent on military installation property for habitat;

(iii) Projects or programs to increase the availability of housing affordable to enlisted military personnel and nonmilitary residents in the local community;

(iv) Projects to retrofit existing uses to increase their compatibility with existing or future military operations;

(v) Projects to enable local communities heavily dependent on a nearby military installation to diversify the local economy so as to reduce the economic dependence on the military base;

(vi) Projects that aid communities to replace jobs lost in the event of a reduction of the military presence; and

(vii) Projects that improve or enhance aspects of the local economy, environment, or quality of life impacted by the presence of military activities.

(4) The department may adopt rules to implement this section. [2019 c 404 § 1.]

43.330.520 Military installation incompatible development—Project list—Report. (1) The department must produce a biennial report identifying a list of projects to address incompatible developments near military installations.

(a) The list must include a description of each project, the estimated cost of the project, the amount of recommended state funding, and the amount of any federal or local funds documented to be available to be used for the project.

(b) Projects on the list must be prioritized with consideration given to:

(i) The recommendations of the recent United States department of defense base realignment and closure (BRAC) processes, joint land use studies, or other federally initiated land use processes; and

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(ii) Whether a branch of the United States armed forces has identified the project as increasing the viability of military installations for current or future missions.

(c) The department may consult with the commanders of United States military installations in Washington to understand impacts and identify the viability of community identified projects to reduce incompatibility.

(2) The department must submit the report to appropriate committees of the house of representatives and the senate, including the joint committee on veterans' and military affairs and the house of representatives capital budget committee, by January 1, 2020, and every two years thereafter.

(3) For the 2021-2023 fiscal biennium, the department shall develop the report in subsection (2) of this section by November 1, 2022, rather than by January 1, 2022. [2021 c 332 § 7039; 2019 c 404 § 2.]

Effective date—2021 c 332: See note following RCW 43.19.501.

43.330.530 Broadband office—Definitions. (*Effective until July 1, 2023.*) The definitions in this section apply throughout this section and RCW 43.330.532 through 43.330.538 unless the context clearly requires otherwise.

(1) "Board" means the public works board established in RCW 43.155.030.

(2) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide 100 megabits per second download and 20 megabits per second upload.

(3) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services to end users.

(4) "Department" means the department of commerce.

(5) "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-use customer's on-premises telecommunications equipment.

(6) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

(7) "Middle mile infrastructure" means broadband infrastructure that links a broadband service provider's core network infrastructure to last mile infrastructure.

(8) "Office" means the governor's statewide broadband office established in RCW 43.330.532.

(9) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

(10) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service, as defined by the office. [2022 c 237 § 2; 2019 c 365 § 2.]

Intent—2022 c 237: "The legislature recognizes the statewide broadband office's objective of scalability while appreciating that a digital economy will continue to drive higher and higher speeds. Therefore, the legislature intends to move towards adequate connectivity in terms of the needs of economic development, education, and telehealth services." [2022 c 237 § 1.]

Findings—2019 c 365: See note following RCW 43.330.532.

43.330.530 Broadband office—Definitions. (*Effective July 1, 2023.*) The definitions in this section apply throughout this section and RCW 43.330.532 through 43.330.538, 43.330.412, 43.330.5393, and 43.330.5395 unless the context clearly requires otherwise.

(1)(a) "Advanced telecommunications capability" means, without regard to any transmission media or technology, high-speed, switched, broadband telecommunications capability that enables users to originate and receive high quality voice, data, graphics, and video telecommunications using any technology.

(b) "Advanced telecommunications capability" does not include access to a technology that delivers transmission speeds below the minimum download and upload speeds provided in the definition of broadband in this section.

(2) "Aging individual" means an individual 55 years of age or older.

(3) "Board" means the public works board established in RCW 43.155.030.

(4) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide 100 megabits per second download and 20 megabits per second upload.

(5) "Broadband adoption" means the process by which an individual obtains daily access to the internet:

(a) At a speed, quality, price, and capacity necessary for the individual to accomplish common tasks, such that the access qualifies as an advanced telecommunications capability;

(b) Providing individuals with the digital skills necessary to participate online;

(c) On a device connected to the internet and other advanced telecommunications services via a secure and convenient network, with associated end-user broadband infrastructure equipment such as wifi mesh router or repeaters to enable the device to adequately use the internet network; and

(d) With technical support and digital navigation assistance to enable continuity of service and equipment use and utilization.

(6) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services to end users.

(7) "Department" means the department of commerce.

(8) "Digital equity" means the condition in which individuals and communities in Washington have the information technology capacity that is needed for full participation in society and the economy.

(9)(a) "Digital inclusion" means the activities that are necessary to ensure that all individuals in Washington have access to, and the use of, affordable information and communication technologies including, but not limited to:

(i) Reliable broadband internet service;

(ii) Internet-enabled devices that meet the needs of the user; and

(iii) Applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration.

(b) "Digital inclusion" also includes obtaining access to digital literacy training, the provision of quality technical

support, and obtaining basic awareness of measures to ensure online privacy and cybersecurity.

(10) "Digital literacy" means the skills associated with using technology to enable users to use information and communications technologies to find, evaluate, organize, create, and communicate information.

(11) "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-use customer's on-premises telecommunications equipment.

(12) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

(13) "Low-income" means households as defined by the department of social and health services, provided that the definition may not exceed the higher of 80 percent of area median household income or the self-sufficiency standard as determined by the University of Washington's self-sufficiency calculator.

(14) "Middle mile infrastructure" means broadband infrastructure that links a broadband service provider's core network infrastructure to last mile infrastructure.

(15) "Office" means the governor's statewide broadband office established in RCW 43.330.532.

(16) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

(17) "Underserved population" means any of the following:

(a) Individuals who live in low-income households;

(b) Aging individuals;

(c) Incarcerated individuals;

(d) Veterans;

(e) Individuals with disabilities;

(f) Individuals with a language barrier, including individuals who are English learners or who have low levels of literacy;

(g) Individuals who are members of a racial or ethnic minority group;

(h) Individuals who primarily reside in a rural area;

(i) Children and youth in foster care; or

(j) Individuals experiencing housing instability.

(18) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service, as defined by the office. [2022 c 265 § 301; 2022 c 237 § 2; 2019 c 365 § 2.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2022 c 237 § 2 and by 2022 c 265 § 301, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2022 c 265 §§ 101, 102, 301-305, and 401: "Sections 101, 102, 301 through 305, and 401 of this act take effect July 1, 2023." [2022 c 265 § 502.]

Short title—Findings—Intent—2022 c 265: See notes following RCW 43.330.539.

Intent—2022 c 237: "The legislature recognizes the statewide broadband office's objective of scalability while appreciating that a digital economy will continue to drive higher and higher speeds. Therefore, the legislature intends to move towards adequate connectivity in terms of the needs of

economic development, education, and telehealth services." [2022 c 237 § 1.]

Findings—2019 c 365: See note following RCW 43.330.532.

43.330.532 Broadband office—Established—Purpose. (*Effective until July 1, 2023.*) (1) The governor's statewide broadband office is established. The director of the office must be appointed by the governor. The office may employ staff necessary to carry out the office's duties as prescribed by chapter 365, Laws of 2019, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to encourage, foster, develop, and improve affordable, quality broadband within the state in order to:

(a) Drive job creation, promote innovation, improve economic vitality, and expand markets for Washington businesses;

(b) Serve the ongoing and growing needs of Washington's education systems, health care systems, public safety systems, transportation systems, industries and business, governmental operations, and citizens; and

(c) Improve broadband accessibility for unserved communities and populations. [2021 c 258 § 2; 2019 c 365 § 3.]

Findings—Intent—2021 c 258: See note following RCW 47.44.160.

Findings—2019 c 365: "The legislature finds that:

(1) Access to broadband is critical to full participation in society and the modern economy;

(2) Increasing broadband access to unserved areas of the state serves a fundamental governmental purpose and function and provides a public benefit to the citizens of Washington by enabling access to health care, education, and essential services, providing economic opportunities, and enhancing public health and safety;

(3) Achieving affordable and quality broadband access for all Washingtonians will require additional and sustained investment, research, local and community participation, and partnerships between private, public, and non-profit entities;

(4) The federal communications commission has adopted a national broadband plan that includes recommendations directed to federal, state, and local governments, including recommendations to:

(a) Design policies to ensure robust competition and maximize consumer welfare, innovation, and investment;

(b) Ensure efficient allocation and management of assets that the government controls or influences to encourage network upgrades and competitive entry;

(c) Reform current universal service mechanisms to support deployment in high-cost areas, ensuring that low-income Americans can afford broadband, and supporting efforts to boost adoption and utilization; and

(d) Reform laws, policies, standards, and incentives to maximize the benefits of broadband in sectors that government influences significantly, such as public education, health care, and government operations;

(5) Extensive investments have been made by the telecommunications industry and the public sector, as well as policies and programs adopted to provide affordable broadband services throughout the state, that will provide a foundation to build a comprehensive statewide framework for additional actions needed to advance the state's broadband goals; and

(6) Providing additional funding mechanisms to increase broadband access in unserved areas is in the best interest of the state. To that end, this act establishes a grant and loan program that will support the extension of broadband infrastructure to unserved areas. To ensure this program primarily serves the public interest, the legislature intends that any grant or loan provided to a private entity under this program must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years." [2019 c 365 § 1.]

43.330.532 Broadband office—Established—Purpose. (*Effective July 1, 2023.*) (1) The governor's statewide broadband office is established. The director of the office must be appointed by the governor. The office may employ staff necessary to carry out the office's duties as prescribed by

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chapter 365, Laws of 2019, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to encourage, foster, develop, and improve affordable, quality broadband within the state in order to:

(a) Drive job creation, promote innovation, improve economic vitality, and expand markets for Washington businesses;

(b) Serve the ongoing and growing needs of Washington's education systems, health care systems, public safety systems, transportation systems, industries and business, governmental operations, and citizens; and

(c) Improve broadband accessibility and adoption for unserved and underserved communities and populations. [2022 c 265 § 302; 2021 c 258 § 2; 2019 c 365 § 3.]

Effective date—2022 c 265 §§ 101, 102, 301-305, and 401: See note following RCW 43.330.530.

Short title—Findings—Intent—2022 c 265: See notes following RCW 43.330.539.

Findings—Intent—2021 c 258: See note following RCW 47.44.160.

Findings—2019 c 365: "The legislature finds that:

(1) Access to broadband is critical to full participation in society and the modern economy;

(2) Increasing broadband access to unserved areas of the state serves a fundamental governmental purpose and function and provides a public benefit to the citizens of Washington by enabling access to health care, education, and essential services, providing economic opportunities, and enhancing public health and safety;

(3) Achieving affordable and quality broadband access for all Washingtonians will require additional and sustained investment, research, local and community participation, and partnerships between private, public, and non-profit entities;

(4) The federal communications commission has adopted a national broadband plan that includes recommendations directed to federal, state, and local governments, including recommendations to:

(a) Design policies to ensure robust competition and maximize consumer welfare, innovation, and investment;

(b) Ensure efficient allocation and management of assets that the government controls or influences to encourage network upgrades and competitive entry;

(c) Reform current universal service mechanisms to support deployment in high-cost areas, ensuring that low-income Americans can afford broadband, and supporting efforts to boost adoption and utilization; and

(d) Reform laws, policies, standards, and incentives to maximize the benefits of broadband in sectors that government influences significantly, such as public education, health care, and government operations;

(5) Extensive investments have been made by the telecommunications industry and the public sector, as well as policies and programs adopted to provide affordable broadband services throughout the state, that will provide a foundation to build a comprehensive statewide framework for additional actions needed to advance the state's broadband goals; and

(6) Providing additional funding mechanisms to increase broadband access in unserved areas is in the best interest of the state. To that end, this act establishes a grant and loan program that will support the extension of broadband infrastructure to unserved areas. To ensure this program primarily serves the public interest, the legislature intends that any grant or loan provided to a private entity under this program must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years." [2019 c 365 § 1.]

43.330.534 Broadband office—Powers and duties. (*Effective until July 1, 2023.*) (1) The office has the power and duty to:

(a) Serve as the central broadband planning body for the state of Washington;

(b) Coordinate with local governments, tribes, public and private entities, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and

plans promoting deployment of broadband infrastructure and greater broadband access, while protecting proprietary information;

(c) Review existing broadband initiatives, policies, and public and private investments;

(d) Develop, recommend, and implement a statewide plan to encourage cost-effective broadband access and to make recommendations for increased usage, particularly in rural and other unserved areas;

(e) Update the state's broadband goals and definitions for broadband service in unserved areas as technology advances, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload; and

(f) Encourage public-private partnerships to increase deployment and adoption of broadband services and applications.

(2) When developing plans or strategies for broadband deployment, the office must consider:

(a) Partnerships between communities, tribes, nonprofit organizations, local governments, consumer-owned and investor-owned utilities, and public and private entities;

(b) Funding opportunities that provide for the coordination of public, private, state, and federal funds for the purposes of making broadband infrastructure or broadband services available to rural and unserved areas of the state;

(c) Barriers to the deployment, adoption, and utilization of broadband service, including affordability of service and project coordination logistics; and

(d) Requiring minimum broadband service of twenty-five megabits per second download and three megabits per second upload speed, that is scalable to faster service.

(3) The office may assist applicants for the grant and loan program created in RCW 43.155.160 with seeking federal funding or matching grants and other grant opportunities for deploying broadband services.

(4) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the statewide broadband account created in RCW 43.155.165.

(5) In carrying out its purpose, the office may collaborate with the utilities and transportation commission, the office of the chief information officer, the department of commerce, the community economic revitalization board, the department of transportation, the public works board, the state librarian, and all other relevant state agencies. [2021 c 258 § 3; 2019 c 365 § 4.]

Findings—Intent—2021 c 258: See note following RCW 47.44.160.

Findings—2019 c 365: See note following RCW 43.330.532.

43.330.534 Broadband office—Powers and duties. (*Effective July 1, 2023.*) (1) The office has the power and duty to:

(a) Serve as the central broadband planning body for the state of Washington;

(b) Coordinate with local governments, tribes, public and private entities, public housing agencies, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and plans promoting deployment of

broadband infrastructure and greater broadband access, while protecting proprietary information;

(c) Review existing broadband initiatives, policies, and public and private investments;

(d) Develop, recommend, and implement a statewide plan to encourage cost-effective broadband access and to make recommendations for increased usage, particularly in rural and other unserved areas;

(e) Update the state's broadband goals and definitions for broadband service in unserved areas as technology advances, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload; and

(f) Encourage public-private partnerships to increase deployment and adoption of broadband services and applications.

(2) When developing plans or strategies for broadband deployment, the office must consider:

(a) Partnerships between communities, tribes, nonprofit organizations, local governments, consumer-owned and investor-owned utilities, and public and private entities;

(b) Funding opportunities that provide for the coordination of public, private, state, and federal funds for the purposes of making broadband infrastructure or broadband services available to rural and unserved areas of the state;

(c) Barriers to the deployment, adoption, and utilization of broadband service, including affordability of service and project coordination logistics; and

(d) Requiring minimum broadband service of twenty-five megabits per second download and three megabits per second upload speed, that is scalable to faster service.

(3) The office may assist applicants for the grant and loan program created in RCW 43.155.160, the digital equity opportunity program created in RCW 43.330.412, and the digital equity planning grant program created in RCW 43.330.5393 with seeking federal funding or matching grants and other grant opportunities for deploying or increasing adoption of broadband services.

(4) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the statewide broadband account created in RCW 43.155.165.

(5) The office shall coordinate an outreach effort to hard-to-reach communities and low-income communities across the state to provide information about broadband programs available to consumers of these communities. The outreach effort must include, but is not limited to, providing information to applicable communities about the federal lifeline program and other low-income broadband benefit programs. The outreach effort must be reviewed by the office of equity annually. The office may contract with other public or private entities to conduct outreach to communities as provided under this subsection.

(6) In carrying out its purpose, the office may collaborate with the utilities and transportation commission, the office of the chief information officer, the department of commerce, the community economic revitalization board, the department of transportation, the public works board, the state librarian, and all other relevant state agencies. [2022 c 265 § 303; 2021 c 258 § 3; 2019 c 365 § 4.]

Effective date—2022 c 265 §§ 101, 102, 301-305, and 401: See note following RCW 43.330.530.

Short title—Findings—Intent—2022 c 265: See notes following RCW 43.330.539.

Findings—Intent—2021 c 258: See note following RCW 47.44.160.

Findings—2019 c 365: See note following RCW 43.330.532.

43.330.536 Broadband office—Goals. It is a goal of the state of Washington that:

(1) By 2024, all Washington businesses and residences have access to high-speed broadband that provides minimum download speeds of at least twenty-five megabits per second and minimum upload speeds of at least three megabits per second;

(2) By 2026, all Washington communities have access to at least one gigabit per second symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings; and

(3) By 2028, all Washington businesses and residences have access to at least one provider of broadband with download speeds of at least one hundred fifty megabits per second and upload speeds of at least one hundred fifty megabits per second. [2019 c 365 § 5.]

Findings—2019 c 365: See note following RCW 43.330.532.

43.330.538 Broadband office—Reports. (1)(a) Beginning January 1, 2021, and biennially thereafter, the office shall report to the legislative committees with jurisdiction over broadband policy and finance on the office's activities during the previous two years.

(b) The report must, at a minimum, contain:

(i) An analysis of the current availability and use of broadband, including average broadband speeds, within the state;

(ii) Information gathered from schools, libraries, hospitals, and public safety facilities across the state, determining the actual speed and capacity of broadband currently in use and the need, if any, for increases in speed and capacity to meet current or anticipated needs;

(iii) An overview of incumbent broadband infrastructure within the state;

(iv) A summary of the office's activities in coordinating broadband infrastructure development with the department of transportation and the public works board, including a summary of funds awarded under RCW 43.155.160;

(v) Suggested policies, incentives, and legislation designed to accelerate the achievement of the goals under RCW 43.330.536; and

(vi) Any proposed legislative and policy initiatives.

(2)(a) By December 31, 2022, the office must submit a report to the governor and the appropriate committees of the legislature regarding the provision of retail telecommunications services to unserved areas by public utility districts and port districts as provided in RCW 54.16.330(10) and 53.08.370(10).

(b) The report must, at a minimum, contain:

(i) The number of public utility districts and port districts providing retail telecommunications services in an unserved area authorized in RCW 54.16.330(10) and 53.08.370(10); and

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(ii) Any recommendations to improve the provision of retail telecommunications services in unserved areas. [2021 c 293 § 4; 2021 c 258 § 4; 2019 c 365 § 6.]

Reviser's note: This section was amended by 2021 c 258 § 4 and by 2021 c 293 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—2021 c 293: See note following RCW 54.16.330.

Findings—Intent—2021 c 258: See note following RCW 47.44.160.

Findings—2019 c 365: See note following RCW 43.330.532.

43.330.539 Broadband office—Digital equity plan.

(1) The office, in consultation with the digital equity forum, the utilities and transportation commission, and the department of social and health services, must develop a state digital equity plan.

(a) The office must seek any available federal funding for purposes of developing and implementing the state digital equity plan.

(b) The state digital equity plan must include such elements as the office determines are necessary to leverage federal funding.

(2) In developing the plan, the office must identify measurable objectives for documenting and promoting digital equity among underserved communities located in the state.

(3) By December 1, 2023, the office must submit a report to the governor and the appropriate committees of the legislature, including the following:

(a) The digital equity plan described in subsection (1) of this section and measurable objectives described in subsection (2) of this section;

(b) A description of how the office collaborated with the membership of the digital equity forum, state agencies, and key stakeholders to develop the plan including, but not limited to, the following:

(i) Community anchor institutions;

(ii) Local governments;

(iii) Local educational agencies;

(iv) Entities that carry out workforce development programs; and

(v) Broadband service providers;

(c) A description of federal funding available to advance digital equity in the state, including any available information on the extent to which state residents have enrolled in the affordable connectivity program through an approved provider; and

(d) Recommendations of additional state law or policy that can be targeted to help improve broadband adoption and affordability for state residents. This may include recommendations of ongoing subsidies that the state can provide to low-income individuals and anchor institutions, as well as identification of revenue sources that other states or jurisdictions have developed to fund such subsidies or discounted rates.

(4) For the purpose of this section, "office" means the statewide broadband office established in RCW 43.330.532. [2022 c 265 § 201.]

Short title—2022 c 265: "This act may be known and cited as the digital equity act." [2022 c 265 § 101.]

Findings—Intent—2022 c 265: "(1) The legislature finds that:

(a) Access to the internet is essential to participating in modern day society including, but not limited to, attending school and work, accessing health

care, paying for basic services, connecting with family and friends, civic participation, and economic survival.

(b) For too many people in both rural and urban areas, the cost of being online is unaffordable. The legislature recognizes that building the last mile of broadband to the home is prohibitively expensive and that urban areas that are home to people earning low incomes continue to face digital redlining. Across the state there is a lack of affordable plans, barriers to enrolling in appropriate broadband plans, and barriers to fully utilize the opportunities that broadband offers.

(c) The COVID-19 pandemic has further highlighted the need for affordable access, devices, and skills to use the internet.

(d) The need for more accessible and affordable internet is felt more acutely among specific sectors of the population, especially Washington residents in rural areas, people who are currently earning low incomes, seniors and others who lack the skills necessary to get online, people with first languages other than English, immigrant communities, and people with disabilities.

(e) The federal government is allocating considerable sums for investment in digital equity that the state broadband office will help to leverage for residents across Washington. Continued comprehensive efforts, including coordination with tribal partners, are needed to ensure truly equitable access. The legislature recognizes that there will be a need for ongoing development and maintenance of broadband infrastructure. The legislature also recognizes that there is a need for ongoing outreach by community-based partnerships to provide enrollment assistance to lower the cost of internet subscriptions and devices.

(2) Therefore, the legislature intends to broaden access to the internet, the appropriate devices, and the skills to operate online safely and effectively so that all people in Washington can fully participate in our society, democracy, and economy by expanding assistance and support programs offered in the state and establishing the governor's statewide broadband office as a central access point to such programs." [2022 c 265 § 102.]

43.330.5393 Digital equity planning grant program. (*Effective July 1, 2023.*) (1) Subject to the availability of funds appropriated for this specific purpose, the department shall establish a digital equity planning grant program.

(2)(a) This program must provide grants to local governments, institutions of higher education, workforce development councils, or other entities to fund the development of a digital equity plan for a discrete geographic region of the state. Only the director or the director's designee may authorize expenditures.

(b) Priority must be given for grant applications:

(i) Accompanied by express support from community or neighborhood-based nonprofit organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners and partners from the categories of institutions identified in RCW 43.330.421; and

(ii) That intend to use community-based participatory action research methods as a part of the proposed plan.

(3) An applicant must submit an application to the department in order to be eligible for funding under this section.

(4) The digital equity forum shall review grant applications and provide input to the department regarding the prioritization of applications in awarding grants among eligible applicants under the program.

(5) The department must:

(a) Pursuant to subsection (2)(b) of this section, evaluate and rank applications using objective criteria such as the number of underserved populations served and subjective criteria such as the degree of support and engagement evidenced by the community who will be served;

(b) Consider the input provided by the forum, as provided in subsection (4) of this section, in awarding grants under the digital equity planning grant program; and

(c) Consider the extent to which the mix of grants awarded would increase in the number of prekindergarten through 12th grade students gaining access to greater levels of digital inclusion as a factor in awarding grants under the digital equity planning grant program.

(6) The department shall develop criteria for what the digital equity plans must include.

(7) The department may adopt rules to implement this section. [2022 c 265 § 305.]

Effective date—2022 c 265 §§ 101, 102, 301-305, and 401: See note following RCW 43.330.530.

Short title—Findings—Intent—2022 c 265: See notes following RCW 43.330.539.

43.330.5395 Digital equity forum. (1) The Washington digital equity forum is established for the purpose of developing recommendations to advance digital connectivity in Washington state and advising the statewide broadband office on the digital equity opportunity program as provided under RCW 43.330.412 and the digital equity planning grant program as provided under RCW 43.330.5393.

(2) In developing its recommendations to advance digital connectivity, the forum must:

(a) Develop goals that are consistent with the goals of the governor's statewide broadband office, as provided in RCW 43.330.536;

(b) Strengthen public-private partnerships;

(c) Solicit public input through public hearings or informational sessions;

(d) Work to increase collaboration and communication between local, state, and federal governments and agencies; and

(e) Recommend reforms to current universal service mechanisms.

(3) The directors of the governor's statewide broadband office and the Washington state office of equity are responsible for appointing participating members of the digital equity forum and no appointment may be made unless each director concurs in the appointment. In making appointments, the directors must prioritize appointees representing:

(a) Federally recognized tribes;

(b) State agencies involved in digital equity; and

(c) Underserved and unserved communities, including historically disadvantaged communities.

(4) A majority of the participating members appointed by the directors must appoint an administrative chair for the forum.

(5) In addition to members appointed by the directors, four legislators may serve on the digital equity forum in an ex officio capacity. Legislative participants must be appointed as follows:

(a) The speaker of the house of representatives must appoint one member from each of the two largest caucuses of the house of representatives; and

(b) The president of the senate must appoint one member from each of the two largest caucuses of the senate.

(6)(a) Funds appropriated to the forum may be used to compensate, for any work done in connection with the forum, additional persons who have lived experience navigating barriers to digital connectivity and digital equity.

(b) Each member of the digital equity forum shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(7) Staff for the digital equity forum must be provided by the governor's statewide broadband office and the Washington state office of equity. The governor's statewide broadband office and the Washington state office of equity are jointly responsible for transmitting the recommendations of the digital equity forum to the legislature, consistent with RCW 43.01.036, by October 28, 2025, and every odd-numbered year thereafter. [2022 c 265 § 306.]

Short title—Findings—Intent—2022 c 265: See notes following RCW 43.330.539.

43.330.540 Cannabis social equity technical assistance grant program. (1) The cannabis social equity technical assistance grant program is established and is to be administered by the department.

(2)(a) The cannabis social equity technical assistance grant program must award grants to:

(i) Cannabis license applicants who are social equity applicants submitting social equity plans under RCW 69.50.335; and

(ii) Cannabis licensees holding a license issued after June 30, 2020, and before July 25, 2021, who meet the social equity applicant criteria under RCW 69.50.335.

(b) Grant recipients under this subsection (2) must demonstrate completion of their project within 12 months of receiving a grant, unless a grant recipient requests, and the department approves, additional time to complete the project.

(3) The department must award grants primarily based on the strength of the social equity plans submitted by cannabis license applicants and cannabis licensees holding a license issued after June 30, 2020, and before July 25, 2021, but may also consider additional criteria if deemed necessary or appropriate by the department. Technical assistance activities eligible for funding include, but are not limited to:

(a) Assistance navigating the cannabis licensure process;

(b) Cannabis-business specific education and business plan development;

(c) Regulatory compliance training;

(d) Financial management training and assistance in seeking financing;

(e) Strengthening a social equity plan; and

(f) Connecting social equity applicants with established industry members and tribal cannabis enterprises and programs for mentoring and other forms of support.

(4) The department may contract to establish a roster of mentors who are available to support and advise social equity applicants and current licensees who meet the social equity applicant criteria under RCW 69.50.335. Contractors under this section must:

(a) Have knowledge and experience demonstrating their ability to effectively advise eligible applicants and licensees in navigating the state's licensing and regulatory framework or on producing and processing cannabis;

(b) Be a business that is at least 51 percent minority or woman-owned; and

(c) Meet department reporting and invoicing requirements.

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(5) Funding for the cannabis social equity technical assistance grant program must be provided through the dedicated cannabis account under *RCW 69.50.540. Additionally, the department may solicit, receive, and expend private contributions to support the grant program.

(6) The department may adopt rules to implement this section.

(7) For the purposes of this section, "cannabis" has the meaning provided under RCW 69.50.101. [2022 c 16 § 36; 2021 c 169 § 1; 2020 c 236 § 3.]

***Reviser's note:** RCW 69.50.540 was amended by 2022 c 169 § 2, removing the reference to the dedicated cannabis account.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—2020 c 236: See note following RCW 69.50.335.

43.330.542 Environmental justice obligations of the department of commerce. The department must apply and comply with the substantive and procedural requirements of chapter 70A.02 RCW. [2021 c 314 § 8.]

Conflict with federal requirements—2021 c 314: See note following RCW 70A.02.005.

43.330.545 Community engagement grants—Law enforcement. (Expires January 1, 2024.) (1) Subject to the availability of amounts appropriated for this specific purpose, a project is created in the department to foster community engagement through neighborhood organizing, law enforcement-community partnerships, youth mobilization, and business engagement. The department shall administer the project. The project must include 12 to 15 grant awards in those counties that have demonstrated their commitment to programs that promote community engagement in public safety including the following counties: Spokane, Pierce, King, Okanogan, Yakima, Cowlitz, Clark, Chelan-Douglas, Walla Walla, Benton-Franklin, Grant, and Snohomish.

(2) The department shall adopt policies and procedures necessary to administer the project including: (a) An application process; (b) disbursement of the grant award to selected applicants; (c) tracking compliance and proper use of funds; and (d) measuring outcomes.

(3) Eligible applicants must:

(a) Be a public agency or nongovernmental organization;

(b) Have demonstrated experience with community engagement initiatives that impact public safety;

(c) Have community engagement;

(d) Have established or be willing to establish a coordinated effort with committed partners, which must include law enforcement and organizations committed to diversity, equity, and inclusion of community members, including organizations whose leadership specifically reflects the communities most impacted by racism; and

(e) Have established priorities, policies, and measurable goals in compliance with the requirements of the project as provided in subsection (5) of this section.

(4) A law enforcement agency applying for a grant award shall not be considered an eligible applicant unless there are no other eligible applicants from the community or county the law enforcement agency serves.

(5) The grant recipient shall:

(a) Lead and facilitate neighborhood organizing initiatives, including:

(i) Empowering community members with tools, skills, confidence, and connections to identify, eradicate, and prevent illegal activity;

(ii) Making neighborhood improvements to deter future criminal activity; and

(iii) Educating community members regarding how to connect with city, county, and law enforcement resources;

(b) Build substantive law enforcement-community partnerships, including:

(i) Building trust between community members and law enforcement by facilitating purposeful antiracist practices and the development of policies that lead to equal treatment under the law;

(ii) Establishing clear expectations for law enforcement to be competent to practice fair and equitable treatment including facilitating dialogue between law enforcement and community members to increase understanding of the impact of historical racist practices and current conflicts;

(iii) Community members regularly informing law enforcement, through presentations, workshops, or forums, on community perceptions of law enforcement and public safety issues;

(iv) Educating community members on the role and function of law enforcement in the community;

(v) Clarifying expectations of law enforcement and of the role of the community in crime prevention;

(vi) Educating community members on the best practices for reporting emergency and nonemergency activities;

(vii) Recognizing community members for effective engagement and community leadership; and

(viii) Recognizing law enforcement officials for efforts to engage underrepresented communities, improve community engagement and empowerment, and reform law enforcement practices;

(c) Mobilize youth to partner with neighborhood groups and law enforcement to prevent violence by:

(i) Helping them develop knowledge and skills to serve as leaders in their communities;

(ii) Focusing on prevention of violence and substance abuse; and

(iii) Empowering youth to bring their voice to community issues that impact healthy police-community relations;

(d) Engage businesses to help prevent crimes, such as vandalism and burglaries, through safety training and other prevention initiatives;

(e) Provide training and technical assistance on how to implement community engagement, improving law enforcement and community partnership, youth engagement, and business engagement;

(f) Identify and maintain consistent, experienced, and committed leadership for managing the grant, including an administrator who acts as an available point of contact with the department; and

(g) Collect and report data and information required by the department.

(6) The department shall, in consultation with the Washington state institute for public policy, develop reporting guidelines for the grant recipient in order to measure whether the safe streets pilot project had an impact on crime rates and community engagement with, and perceptions of, law enforcement. The department shall submit a preliminary

report to the legislature with details on the selected grant recipients and the reporting guidelines by January 1, 2022. The department shall submit a final report on the safe streets pilot project, including an analysis of the reported data required under this subsection, by December 1, 2023.

(7) This section expires January 1, 2024. [2021 c 327 § 2.]

Finding—2021 c 327: "The legislature finds that community engagement is a foundational principle of successful community policing practices. When individuals and neighborhood groups are encouraged to partner with law enforcement, a powerful alliance can be built on mutual trust and respect and mitigate polarization between police departments and community groups. A successful community-police partnership leads to the achievement of shared goals of improving safety and quality of life and ensuring that public safety services are tailored to the needs of local communities.

The legislature recognizes current efforts in Washington to mobilize communities to insist on equitable and accountable practices that will result in community participation in public safety efforts as well as establish cooperative lines of communication between civilians and law enforcement. Laudable community engagement models such as the safe streets campaign in Pierce county, safe Yakima in Yakima county, and the Okanogan county community coalition are recognized to mitigate crime trends by engaging the community and law enforcement in cooperative efforts to improve public safety.

The department of commerce intends to foster community engagement with law enforcement officers through the creation of a community engagement project in 15 communities across the state of Washington with a mix of urban, rural, and suburban areas to facilitate community-law enforcement partnerships and improve police-community relations. The department will implement a project evaluation to measure and examine the impact of local initiatives on community engagement, neighborhood safety, and positive community-police relations.

The funded projects will facilitate the empowerment of communities to engage in crime prevention efforts through neighborhood organizing, law enforcement-community partnerships, youth mobilization, and business engagement." [2021 c 327 § 1.]

43.330.550 Employer-supported child care—Technical assistance. (1) Subject to the availability of amounts appropriated for this specific purpose, the department, in collaboration with the department of children, youth, and families, shall provide or contract to provide remote or in-person technical assistance to employers interested in supporting their employees' access to high quality child care.

(2) Technical assistance may include guidance related to:

(a) Operating a licensed child care center at or near the workplace for the benefit of employees;

(b) Financing and construction of a licensed child care center at or near the workplace for the benefit of employees;

(c) Providing financial assistance to employees for licensed or certified child care providers and license-exempt child care program expenses;

(d) Encouraging access and support for low-wage employees;

(e) Sponsoring dependent care flexible spending accounts for employees; and

(f) Developing a "bring your infant to work" program and other family-friendly work policies for employees. [2021 c 199 § 308.]

Short title—Findings—Intent—Conflict with federal requirements—2021 c 199: See notes following RCW 43.216.770.

43.330.560 Office of renewable fuels—Definitions. The definitions in this section apply throughout RCW

43.330.565, 43.330.570, and 43.330.575 unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Green electrolytic hydrogen" means hydrogen produced through electrolysis and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(3) "Office" means the statewide office of renewable fuels established in RCW 43.330.565.

(4) "Overburdened communities" has the same meaning as defined in RCW 70A.02.010.

(5) "Renewable fuel" means fuel produced using renewable resources and includes renewable hydrogen.

(6) "Renewable hydrogen" has the same meaning as defined in RCW 54.04.190.

(7) "Renewable resource" has the same meaning as defined in RCW 19.405.020. [2022 c 292 § 101.]

Findings—Intent—2022 c 292: See note following RCW 43.330.565.

43.330.565 Office of renewable fuels—Established.

(1) The statewide office of renewable fuels is established within the department. The office shall report to the director of the department. The office may employ staff as necessary to carry out the office's duties as prescribed by chapter 292, Laws of 2022, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to leverage, support, and integrate with other state agencies to:

(a) Accelerate comprehensive market development with assistance along the entire life cycle of renewable fuel projects;

(b) Support research into and development and deployment of renewable fuel and the production, distribution, and use of renewable and green electrolytic hydrogen and their derivatives, as well as product engineering and manufacturing relating to the production and use of such hydrogen and its derivatives;

(c) Drive job creation, improve economic vitality, and support the transition to clean energy;

(d) Enhance resiliency by using renewable fuels and green electrolytic hydrogen to support climate change mitigation and adaptations; and

(e) Partner with overburdened communities to ensure communities equitably benefit from renewable and clean fuels efforts. [2022 c 292 § 102.]

Findings—Intent—2022 c 292: "(1) The legislature finds that while hydrogen fuel has been used in a variety of applications in the state, the source of hydrogen has been derived from fossil fuel feedstocks, such as natural gas. Hydrogen is an essential building block and energy carrier molecule that is necessary in the production of conventional and renewable fuels and a valuable decarbonization tool when used in sectors such as marine, aviation, steel, aluminum, and cement, as well as surface transportation including heavy-duty vehicles, such as transit, trucking, and drayage equipment. Hydrogen can be a carbon-free fuel with an energy per unit mass that is three to four times greater than jet fuel, whose energy can be extracted either through thermochemical (combustion) or electrochemical (fuel cell) processes. In both cases, the only by-product is water, instead of the greenhouse gases and other conventional and toxic pollutants that are emitted from using fossil fuels.

(2) The legislature further finds that the use of renewable hydrogen and hydrogen produced from carbon-free feedstocks through electrolysis is an essential tool to a clean energy ecosystem and emissions reduction for challenging infrastructure needs. Clean hydrogen fuel can be produced or

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"charged" closer to the generation of the electricity when the electrical supply grid has surplus energy, at times of low electricity use, such as evenings, then made available at times of higher need and convenient locations, such as fueling stations, avoiding the need to build or upgrade larger electrical infrastructure, including distribution systems, to meet higher peak demand for electricity.

(3) Therefore, the legislature intends by this act to establish policies and a framework for the state to become a national and global leader in the production and use of these hydrogen fuels. This act will create an office of renewable fuels to: Promote partnerships among industrial, transportation, agriculture, and commercial interests as well as fuel producers, the technology research sector, and public sector agencies; identify barriers to and opportunities for market development; provide greater clarity and certainty in regulatory and siting standards; provide incentives and financial assistance in the deployment of hydrogen fuel infrastructure; support a clean and just energy transition; help create good quality, clean energy jobs; and improve air quality in degraded areas, particularly in communities that have borne disproportionate levels of air pollution from the combustion of fossil fuels." [2022 c 292 § 1.]

43.330.570 Office of renewable fuels—Duties. (1)

The office shall:

(a) Coordinate with federally recognized tribes, local government, state agencies, federal agencies, private entities, the state's public four-year institutions of higher education, labor unions, and others to facilitate and promote multi-institution collaborations to drive research, development, and deployment efforts in the production, distribution, and use of renewable fuels including, but not limited to, green electrolytic hydrogen;

(b) Review existing renewable fuels and green electrolytic hydrogen initiatives, policies, and public and private investments;

(c) Consider funding opportunities that provide for the coordination of public and private funds for the purposes of developing and deploying renewable fuels and green electrolytic hydrogen;

(d) Assess opportunities for and barriers to deployment of renewable fuels and green electrolytic hydrogen in hard to decarbonize sectors of the state economy;

(e) Request recommendations from the Washington state association of fire marshals regarding fire and other safety standards adopted by the United States department of energy and recognized national and international fire and safety code development authorities regarding renewable fuels and green electrolytic hydrogen;

(f) By December 1, 2023, develop a plan and recommendations for consideration by the legislature and governor on renewable fuels and green electrolytic hydrogen policy and public funding including, but not limited to, project permitting, state procurement, and pilot projects; and

(g) Encourage new and support existing public-private partnerships to increase coordinated planning and deployment of renewable fuels and green electrolytic hydrogen.

(2) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the renewable fuels accelerator account created in RCW 43.330.575.

(3) In carrying out its duties, the office must collaborate with the department, the department of ecology, the department of transportation, the utilities and transportation commission, electric utilities in Washington state, the Washington State University extension energy program, and all other relevant state agencies. The office must also consult with and

seek to involve federally recognized tribes, project developers, labor and industry trade groups, and other interested parties, in the development of policy analysis and recommended programs or projects.

(4) The office may cooperate with other state agencies in compiling data regarding the use of renewable fuels and green electrolytic hydrogen in state operations, including motor vehicle fleets, the state ferry system, and nonroad equipment. [2022 c 292 § 103.]

Findings—Intent—2022 c 292: See note following RCW 43.330.565.

43.330.575 Renewable fuels accelerator account. The renewable fuels accelerator account is created in the state treasury. Revenues to the account consist of appropriations made by the legislature, federal funds, gifts or grants from the private sector or foundations, and other sources deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes designated in RCW 43.330.565 and 43.330.570 and section 201, chapter 292, Laws of 2022. Only the director or the director's designee may authorize expenditures from the account. [2022 c 292 § 104.]

Effective date—2022 c 292 §§ 104 and 201: "Sections 104 and 201 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [March 31, 2022]." [2022 c 292 § 501.]

Findings—Intent—2022 c 292: See note following RCW 43.330.565.

HOMELESS YOUTH PREVENTION AND PROTECTION ACT

43.330.700 Findings—Homeless youth. (1) The legislature finds that every night thousands of homeless youth in Washington go to sleep without the safety, stability, and support of a family or a home. This population is exposed to an increased level of violence, human trafficking, and exploitation resulting in a higher incidence of substance abuse, illness, and death. The prevention and reduction of youth and young adult homelessness and protection of homeless youth is of key concern to the state. Nothing in chapter 69, Laws of 2015 is meant to diminish the work accomplished by the implementation of Becca legislation but rather, the intent of the legislature is to further enhance the state's efforts in working with unaccompanied homeless youth and runaways to encourage family reconciliation or permanent housing and support through dependency when family reconciliation is not a viable alternative.

(2) Successfully addressing youth and young adult homelessness ensures that homeless youth and young adults in our state have the support they need to thrive and avoid involvement in the justice system, human trafficking, long-term, avoidable use of public benefits, and extended adult homelessness.

(3) Providing appropriate, relevant, and readily accessible services is critical for addressing one-time, episodic, or longer-term homelessness among youth and young adults, and keeping homeless youth and young adults safe, housed, and connected to family.

(4) The coordination of statewide programs to combat youth and young adult homelessness should include pro-

grams addressing both youth and young adults. In some instances, best practices mandate that youth programs and young adult programs be segregated in their implementation; however, in other instances, innovative approaches can ensure the health and safety of both populations while serving them together, allowing for alignment with federal programs and funding opportunities, application of adolescent neurodevelopment research, and maximization of capacity to serve more dispersed populations in rural areas. The legislature further finds that the differing needs of these populations should be considered when assessing which programs are relevant and appropriate.

(5) To successfully reduce and prevent youth and young adult homelessness, it is the goal of the legislature to have the following key components available and accessible:

(a) **Stable housing:** It is the goal of the legislature to provide a safe and healthy place for homeless youth to sleep each night until permanency can be reached. Every homeless young adult in our state deserves access to housing that gives them a safe, healthy, and supported launching pad to adulthood. Every family in crisis should have appropriate support as they work to keep their children housed and safe. It is the goal of the legislature that every homeless youth discharged from a public system of care in our state will not be discharged into homelessness.

(b) **Family reconciliation:** All homeless youth should have access to services that support reunification with immediate family. When reunification is not possible for homeless youth, youth should be placed in the custody of the department of children, youth, and families.

(c) **Permanent connections:** Every homeless young adult should have opportunities to establish positive, healthy relationships with adults, including family members, employers, landlords, teachers, and community members, with whom they can maintain connections and from whom they can receive ongoing, long-term support to help them develop the skills and experiences necessary to achieve a successful transition to adulthood.

(d) **Education and employment:** Every homeless young adult in our state deserves the opportunity and support they need to complete their high school education and pursue additional education and training. It is the goal of the legislature that every homeless young adult in our state will have the opportunity to engage in employment training and be able to access employment. With both education and employment support and opportunities, young adults will have the skills they need to become self-sufficient, self-reliant, and independent.

(e) **Social and emotional well-being:** Every homeless youth and young adult in our state should have access to both behavioral health care and physical health care. Every state-funded program for homeless youth and young adults must endeavor to identify, encourage, and nurture each youth's strengths and abilities and demonstrate a commitment to youth-centered programming. [2019 c 124 § 4; 2015 c 69 § 4.]

43.330.702 Homeless youth—Definitions. The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Child," "juvenile," "youth," and "minor" means any unemancipated individual who is under the chronological age of eighteen years.

(2) "Homeless" means without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless assistance act, P.L. 100-77, July 22, 1987, 101 Stat. 482, and runaway and homeless youth act, P.L. 93-415, Title III, September 7, 1974, 88 Stat. 1129.

(3) "Runaway" means an unmarried and unemancipated minor who is absent from the home of a parent or guardian or other lawful placement without the consent of the parent, guardian, or lawful custodian.

(4) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(5) "Unaccompanied" means a youth or young adult experiencing homelessness while not in the physical custody of a parent or guardian.

(6) "Young adult" means a person between eighteen and twenty-four years of age. [2015 c 69 § 3.]

43.330.705 Homeless youth—Office of homeless youth prevention and protection programs. (1) There is created the office of homeless youth prevention and protection programs within the department.

(2) Activities of the office of homeless youth prevention and protection programs must be carried out by a director of the office of homeless youth prevention and protection programs, supervised by the director of the department or his or her designee.

(3) The office of homeless youth prevention and protection programs is responsible for leading efforts under this subchapter to coordinate a spectrum of ongoing and future funding, policy, and practice efforts related to homeless youth and improving the safety, health, and welfare of homeless youth in this state.

(4) The measurable goals of the office of homeless youth prevention and protection programs are to: (a) Measurably decrease the number of homeless youth and young adults by identifying programs that address the initial causes of homelessness, and (b) measurably increase permanency rates among homeless youth by decreasing the length and occurrences of youth homelessness caused by a youth's separation from family or a legal guardian.

(5) The office of homeless youth prevention and protection programs shall (a) gather data and outcome measures, (b) initiate data-sharing agreements, (c) develop specific recommendations and timelines to address funding, policy, and practice gaps within the state system for addressing the five key components in RCW 43.330.700, (d) make reports, (e) increase system integration and coordinate efforts to prevent state systems from discharging youth and young adults into homelessness, (f) develop measures to include by county and statewide the number of homeless youth, dependency status, family reunification status, housing status, program participation, and runaway status, and (g) develop a comprehensive plan to encourage identification of youth experiencing homelessness, promote family stability, and eliminate youth and young adult homelessness.

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(6)(a) The office of homeless youth prevention and protection programs shall regularly consult with an advisory committee, comprised of advocates, at least two legislators, at least two parent advocates, at least two youth representatives, at least one representative from law enforcement, service providers, and other stakeholders knowledgeable in the provision of services to homeless youth and young adults, including the prevention of youth and young adult homelessness, the dependency system, and family reunification, for a total of twelve members. The advisory committee shall provide guidance and recommendations to the office of homeless youth prevention and protection programs regarding funding, policy, and practice gaps within and among state programs.

(b) The advisory committee must be staffed by the department.

(c) The members of the advisory committee must be appointed by the governor, except for the legislators who must be appointed by the speaker of the house of representatives and the president of the senate.

(d) The advisory committee must have its initial meeting no later than March 1, 2016.

(7) The office of homeless youth prevention and protection programs must be operational no later than January 1, 2016. Transfer of powers, duties, and functions of the department of children, youth, and families to the department of commerce pertaining to youth homeless services and programs identified in RCW 43.330.710(2) may occur before this date. [2019 c 124 § 5; 2015 c 69 § 5.]

43.330.706 Homeless youth—Data and outcomes measures—Report. (1) The office of homeless youth prevention and protection programs shall identify data and outcomes measures from which to evaluate future public investment in homeless youth services.

(2) By December 1, 2016, and in compliance with RCW 43.01.036, the office of homeless youth prevention and protection programs must submit a report to the governor and the legislature to inform recommendations for funding, policy, and best practices in the five priority service areas identified in RCW 43.330.700 and present recommendations to address funding, policy, and practice gaps in the state system.

(3) Recommendations must include, but are not limited to: Strategies to enhance coordination between providers of youth homelessness programs and the child welfare system, and strategies for communities to identify homeless youth and ensure their protection and referral to appropriate services, including family reconciliation and transition to dependent status for minors. [2015 c 69 § 6.]

43.330.710 Homeless youth—Office of homeless youth prevention and protection programs—Report to the director—Grants—Program management and oversight. (1)(a) The office of homeless youth prevention and protection programs shall report to the director or the director's designee.

(b)(i) The office of homeless youth prevention and protection programs may distribute grants to providers who serve homeless youth and young adults throughout the state.

(ii) The grants must fund services in the five key components in RCW 43.330.700.

(iii) The grants must be expended on a statewide basis and may be used to support direct services, as well as technical assistance, evaluation, and capacity building.

(2) The office of homeless youth prevention and protection programs shall provide management and oversight guidance and direction to the following programs:

(a) HOPE centers as described in RCW 43.185C.315;

(b) Crisis residential centers as described in RCW 43.185C.295;

(c) Street outreach services as defined in RCW 43.185C.010;

(d) Independent youth housing programs as described in RCW 43.63A.305. [2019 c 124 § 6; 2015 c 69 § 7.]

43.330.715 Homeless youth—Training program. (1) The office of homeless youth prevention and protection programs shall establish a statewide training program on homeless youth for criminal justice personnel. The training must include identifying homeless youth, existing laws governing the intersection of law enforcement and homeless youth, and best practices for approaching and engaging homeless youth in appropriate services.

(2) The training must be provided where possible by an entity that has experience in developing coalitions, training, programs, and policy on homeless youth in Washington. [2015 c 69 § 8.]

43.330.717 Homeless youth—Review of state-funded programs. The joint legislative audit and review committee shall conduct a review of state-funded programs that serve unaccompanied homeless youth under the age of eighteen, including dependent youth, to determine what performance measures exist, what statutory reporting requirements exist, and whether there is reliable data on ages of youth served, length of stay, and effectiveness of program exit and reentry. Where statutory reporting requirements do exist, the joint legislative audit and review committee shall review the programs' compliance with relevant statutory reporting requirements. The committee shall report on what services are provided to unaccompanied homeless youth including, but not limited to: Outreach and other nonshelter services, shelter services, and family reconciliation. The committee is also to report on the number of unaccompanied homeless youth statewide and by county and city and how this number is determined. The programs reviewed may include, but are not limited to, HOPE centers as described in RCW 43.185C.315 and crisis residential centers as described in RCW 43.185C.295. [2015 c 69 § 9.]

43.330.720 Unaccompanied youth—Publicly funded system of care—Department of children, youth, and families and the office of homeless youth prevention and protection programs to develop plan. (1) In accordance with RCW 43.330.700(5)(a), it is the goal of the legislature, that beginning January 1, 2021, any unaccompanied youth discharged from a publicly funded system of care in our state will be discharged into safe and stable housing, and that this policy applies to any judicial proceeding through which the youth has been committed to the publicly funded system of care or in any collateral proceeding that involves the custody of the youth in that system.

(2) The department of children, youth, and families and the office of homeless youth prevention and protection programs must jointly develop a plan to ensure that, by December 31, 2020, no unaccompanied youth is discharged from a publicly funded system of care into homelessness. The plan must specify actions that state agencies will need to take, any necessary statutory and funding legislative action, and the assignment of those specific state agency actions to effectuate all parts of the plan. By December 31, 2019, the department of children, youth, and families must issue the plan to the appropriate committees of the legislature and the governor.

(3) For the purposes of this section, "publicly funded system of care" means the child welfare system, the behavioral health system, the juvenile justice system, and programs administered by the office of homeless youth prevention and protection programs. [2018 c 157 § 1.]

43.330.723 Youth and young adults exiting publicly funded system of care—Flexible funding. (1) The office of homeless youth prevention and protection programs, in coordination with the department of children, youth, and families, shall administer flexible funding, subject to the amounts appropriated for this specific purpose, to support persons under the age of 25 exiting publicly funded systems of care that need discrete support or funding to secure safe housing. The flexible funding provided under this section may be provided for immediate needs of the person. A person may receive support under this section more than once. Uses of the flexible funding provided under this section may include, but are not limited to, the following:

(a) Car repair or other transportation assistance;

(b) Rental application fees, a security deposit, or short-term rental assistance; or

(c) Other uses that will help support the person's housing stability, education, or employment, or meet immediate basic needs.

(2) The flexible funding provided under this section may be given to:

(a) Persons under the age of 25;

(b) Community-based providers, assisting persons under the age of 25 in planning for discharge and successfully discharging from a publicly funded system of care into safe and stable housing; and

(c) Individuals or entities, including landlords, providing safe housing or other housing-related support for persons under the age of 25.

(3) The office of homeless youth prevention and protection programs shall make training available to publicly funded systems of care and other professionals working with youth exiting publicly funded systems of care on how to access the flexible funds created under this section and best practices to divert youth from homelessness.

(4) For purposes of this section, "publicly funded system of care" has the same meaning as provided in RCW 43.330.720. [2022 c 137 § 3.]

Findings—Intent—2022 c 137: "(1) The legislature finds that young people discharging from publicly funded systems of care are at increased risk of homelessness. Youth and young adults experiencing homelessness face traumatic events at a higher rate than their peers who have stable housing. Homelessness has long-term impacts on brain development and well-being and creates barriers to education and employment.

(2) RCW 43.330.720 establishes a goal that any unaccompanied youth discharged from a publicly funded system of care in our state will be discharged into safe and stable housing. The office of homeless youth prevention and protection programs and the department of children, youth, and families published the improving stability for youth exiting systems of care report in 2020 outlining steps to achieve this goal. These steps provide a multipronged approach to ensure youth exit publicly funded systems of care into safe and stable housing, including:

- (a) System-level support while youth are in the custody of publicly funded systems of care to ensure effective transition from care;
 - (b) Community-level connections and services to provide support when youth transition back to the community; and
 - (c) Resources to secure and maintain stable housing.
- (3) The legislature intends to implement community services, system response, and flexible resources to support the goal established under RCW 43.330.720 that youth discharged from publicly funded systems of care are discharged into safe and stable housing with the appropriate supports in place to provide a strong footing." [2022 c 137 § 1.]

43.330.724 Youth and young adults exiting publicly funded system of care—Housing stability for youth in crisis pilot programs. (Expires July 1, 2026.) (1) Subject to the amounts appropriated for this specific purpose, the office of homeless youth prevention and protection programs shall select, monitor, and provide funding and assistance for a minimum of six total counties that implement housing stability for youth in crisis programs as described in this section for a period of three years.

(2) The housing stability for youth in crisis pilot programs must include the following components:

- (a) Regular trainings provided to all appropriate juvenile court staff regarding risk factors and identifiers for youth homelessness;
- (b) An identification and referral system used throughout the juvenile court system where all appropriate court staff use routine data flags to identify youth at risk for youth homelessness and refer youth to the housing stability coordinator described under (c) of this subsection;
- (c) A dedicated housing stability coordinator in each participating county that receives referrals, conducts housing stability assessments with youth and caregivers, connects youth and caregivers with relevant community providers based on assessments, and follows up on referrals;
- (d) A model of homelessness prevention services that provides the appropriate amount of intervention based on the youth or family needs; and
- (e) Coordinated housing services for youth experiencing homelessness.

(3) By October 1, 2025, and in compliance with RCW 43.01.036, the office of homeless youth prevention and protection programs shall submit a report to the relevant committees of the legislature and the governor that includes:

- (a) An evaluation of the housing stability for youth in crisis programs that includes outcome data for participants;
- (b) Recommendations for improving the housing stability for youth in crisis programs; and
- (c) Recommendation for expanding the housing stability for youth in crisis programs.

(4) This section expires July 1, 2026. [2022 c 137 § 4.]

Findings—Intent—2022 c 137: See note following RCW 43.330.723.

43.330.725 Youth and young adults exiting publicly funded system of care—System of care grants. (1) Subject to the amounts appropriated for this specific purpose, the

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office of homeless youth prevention and protection programs shall provide system of care grants that prevent youth from exiting a publicly funded system of care into homelessness.

(2) The system of care grants funded under this section shall provide support to youth exiting a publicly funded system of care and may include:

- (a) Behavioral health services;
- (b) Civil legal aid;
- (c) Peer navigators and support;
- (d) Family reconciliation or engagement services;
- (e) Employment support;
- (f) Education support;
- (g) Case management;
- (h) Housing and financial support; or
- (i) Other navigation support to secure safe and stable housing.

(3) For purposes of this section, "publicly funded system of care" has the same meaning as provided in RCW 43.330.720. [2022 c 137 § 5.]

Findings—Intent—2022 c 137: See note following RCW 43.330.723.

WASHINGTON SMALL BUSINESS RETIREMENT MARKETPLACE

43.330.730 Finding—2015 c 296. The legislature finds that there is a retirement savings access gap in Washington; that Americans reach the median salary four years later than they did in 1980 and therefore have four fewer years of savings opportunities; and that one in six Americans retire in poverty. Employees who are unable to effectively build their retirement savings risk living on low incomes in their elderly years and are more likely to become dependent on state services. Further, small businesses, which employ more than forty percent of private sector employees in Washington, often choose not to offer retirement plans to employees due to concerns about costs, administrative burdens, and potential liability that they believe such plans would place on their business. In response, the legislature recognizes the work of the federal government in addressing these issues by establishing the myRA program: A safe, affordable, and accessible retirement vehicle designed to remove barriers to retirement savings. In addition, the legislature recognizes that many private financial services firms in Washington currently offer high quality retirement options for small businesses and their employees.

The Washington small business retirement marketplace will remove barriers to entry into the retirement market for small businesses by educating small employers on plan availability and promoting, without mandated participation, qualified, low-cost, low-burden retirement savings vehicles and myRA. The marketplace furthers greater retirement plan access for the residents of Washington while ensuring that individuals participating in these retirement plans will have all the protections offered by the employee retirement income security act. Further, the Washington small business retirement marketplace will not pose any significant financial burden upon taxpayers. The Washington small business retirement marketplace will be the best way for Washington to close the retirement savings access gap, protect the fiscal stability of the state and its citizens well into the future, and further cement its place as a national leader in retirement and

investor promotion and protection. The marketplace will educate and promote retirement saving among employees and in particular market to small employers with fifty or fewer employees. [2015 c 296 § 1.]

43.330.732 Definitions. The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Approved plans" means retirement plans offered by private sector financial services firms that meet the requirements of this chapter to participate in the marketplace.

(2) "Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings. The fund generally includes a mix of stocks and bonds in varying proportions according to the fund's investment outlook.

(3) "Eligible employer" means a self-employed individual, sole proprietor, or an employer with fewer than one hundred qualified employees at the time of enrollment.

(4) "Enrollee" means any employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the Washington small business retirement marketplace.

(5) "myRA" means the myRA retirement program administered by the United States department of the treasury that is available to all employers and employees with no fees or no minimum contribution requirements. A myRA is a Roth IRA option and investments in these accounts are backed by the United States department of the treasury.

(6) "Participating employer" means any eligible employer with employees enrolled in an approved plan offered through the Washington small business retirement marketplace who chooses to participate in the marketplace and offers approved plans to employees for voluntary enrollment.

(7) "Private sector financial services firms" or "financial services firms" mean persons or entities licensed or holding a certificate of authority and in good standing by either the department of financial institutions or the office of the insurance commissioner and meeting all federal laws and regulations to offer retirement plans.

(8) "Qualified employee" means those workers who are defined by the federal internal revenue service to be eligible to participate in a specific qualified plan.

(9) "Target date or other similar fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds, and cash equivalents in its portfolio according to a selected time frame that is appropriate for a particular investor. A target date is structured to address a projected retirement date.

(10) "Washington small business retirement marketplace" or "marketplace" means the retirement savings program created to connect eligible employers and their employees with approved plans to increase retirement savings. [2015 c 296 § 2.]

43.330.735 Washington small business retirement marketplace. (1) The Washington small business retirement marketplace is created.

(2) Prior to connecting any eligible employer with an approved plan in the marketplace, the director shall design a plan for the operation of the marketplace.

(3) The director shall consult with the Washington state department of retirement systems, the Washington state investment board, and the department of financial institutions in designing and managing the marketplace.

(4) The director shall approve for participation in the marketplace all private sector financial services firms that meet the requirements of *RCW 43.330.732(7).

(5) A range of investment options must be provided to meet the needs of investors with various levels of risk tolerance and various ages. The director must approve a diverse array of private retirement plan options that are available to employers on a voluntary basis, including but not limited to life insurance plans that are designed for retirement purposes, and plans for eligible employer participation such as: (a) A SIMPLE IRA-type plan that provides for employer contributions to participating enrollee accounts; and (b) a payroll deduction individual retirement account type plan or workplace-based individual retirement accounts open to all workers in which the employer does not contribute to the employees' account.

(6)(a) Prior to approving a plan to be offered on the marketplace, the department must receive verification from the department of financial institutions or the office of the insurance commissioner:

(i) That the private sector financial services firm offering the plan meets the requirements of *RCW 43.330.732(7); and

(ii) That the plan meets the requirements of this section excluding subsection (9) of this section which is subject to federal laws and regulations.

(b) If the plan includes either life insurance or annuity products, or both, the office of the insurance commissioner may request that the department of financial institutions conduct the plan review as provided in (a)(ii) of this subsection prior to submitting its verification to the department.

(c) The director may remove approved plans that no longer meet the requirements of this chapter.

(7) The financial services firms participating in the marketplace must offer a minimum of two product options: (a) A target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement and (b) a balanced fund. The marketplace must offer myRA.

(8) In order for the marketplace to operate, there must be at least two approved plans on the marketplace; however, nothing in this subsection shall be construed to limit the number of private sector financial services firms with approved plans from participating in the marketplace.

(9) Approved plans must meet federal law or regulation for internal revenue service approved retirement plans.

(10) The approved plans must include the option for enrollees to roll pretax contributions into a different individual retirement account or another eligible retirement plan after ceasing participation in a plan approved by the Washington small business retirement marketplace.

(11) Financial services firms selected by the department to offer approved plans on the marketplace may not charge the participating employer an administrative fee and may not charge enrollees more than one hundred basis points in total annual fees and must provide information about their product's historical investment performance. Financial services firms may charge enrollees a de minimis fee for new and/or

low balance accounts in amounts negotiated and agreed upon by the department and financial services firms. The director shall limit plans to those with total fees the director considers reasonable based on all the facts and circumstances.

(12) Participation in the Washington small business retirement marketplace is voluntary for both eligible employers and qualified employees.

(13) Enrollment in any approved plan offered in the marketplace is not an entitlement. [2017 c 69 § 1; 2015 c 296 § 3.]

**Reviser's note:* RCW 43.330.732(7) defines "private sector financial firms" and "financial services firms."

43.330.737 Private sector contractor's duties—Director's duties—Rollovers—Rules—Participation of private sector financial services firms. (1) The director shall contract with a private sector entity to:

(a) Establish a protocol for reviewing and approving the qualifications of all private sector financial services firms that meet the qualifications to participate in the marketplace;

(b) Design and operate an internet website that includes information about how eligible employers can voluntarily participate in the marketplace;

(c) Develop marketing materials about the marketplace that can be distributed electronically, posted on agency websites that interact with eligible employers, or inserted into mail from the department of revenue, department of labor and industries, employment security department, the office of minority and women's business enterprises, department of licensing, and secretary of state's division of corporations;

(d) Identify and promote existing federal and state tax credits and benefits for employers and employees that are related to encouraging retirement savings or participating in retirement plans; and

(e) Promote the benefits of retirement savings and other information that promotes financial literacy.

(2) The director shall address how rollovers are handled for eligible Washington employers that have workers in other states, and whether out-of-state employees with existing IRA's can roll them into the plans offered through the Washington small business retirement marketplace.

(3) The director shall direct the entity retained pursuant to subsection (1) of this section to assure that licensed professionals who assist their eligible business clients or employees to enroll in a plan offered through the Washington small business retirement marketplace may receive routine, market-based commissions or other compensation for their services.

(4) The director shall ensure by rule that there is objective criteria in the protocol provided in subsection (1)(a) of this section and that the protocol does not provide unfair advantage to the private sector entity which establishes the protocol.

(5) The director shall encourage the participation of private sector financial services firms in the marketplace. [2015 c 296 § 4.]

43.330.740 Payment of marketplace expenses—Use of private and federal funding. In addition to any appropriated funds, the director may use private funding sources, including private foundation grants, to pay for marketplace expenses. On behalf of the marketplace, the department shall

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seek federal and private grants and is authorized to accept any funds awarded to the department for use in the marketplace. [2015 c 296 § 5.]

43.330.742 Federal employment retirement income act liability—Prohibition on state-based retirement plan for nonstate employees. The department shall not expose the state of Washington as an employer or through administration of the marketplace to any potential liability under the federal employee retirement income [security] act of 1974. As such, the department is specifically prohibited from offering and operating a state-based retirement plan for businesses or individuals who are not employed by the state of Washington. [2015 c 296 § 6.]

43.330.745 Incentive payments. Using funds specifically appropriated for this purpose, and funds provided by private foundations or other private sector entities, the director may provide incentive payments to participating employers that enroll in the marketplace. [2015 c 296 § 7.]

43.330.747 Effectiveness and efficiency of the Washington small business retirement marketplace—Biennial report. The director shall report biennially to the legislature on the effectiveness and efficiency of the Washington small business retirement marketplace, including the levels of enrollment and the retirement savings levels of participating enrollees that are obtained in aggregate on a voluntary basis from private sector financial services firms that participate in the marketplace. [2015 c 296 § 8.]

43.330.750 Rules—Rule development process. The director shall adopt rules necessary to allow the marketplace to operate as authorized by this subchapter. As part of the rule development process, the director shall consult with organizations representing eligible employers, qualified employees, private and nonprofit sector retirement plan administrators and providers, organizations representing private sector financial services firms, and any other individuals or entities that the director determines relevant to the development of an effective and efficient method for operating the marketplace. The director or the director's designee may take the actions necessary to ensure chapter 69, Laws of 2017 is implemented on July 23, 2017. [2017 c 69 § 2; 2015 c 296 § 9.]

MANUFACTURING AND RESEARCH AND DEVELOPMENT SECTOR PROMOTION

43.330.760 Intent—2021 c 64. It is the intent of the legislature that Washington retain and build on its leadership in the manufacturing and research and development sectors. The legislature finds that a thriving research and production sector are complimentary and should be promoted in every region of the state. The legislature finds this is critical to provide a strong, resilient tax base for good schools, safe streets, and community optimism. Therefore, the legislature intends to identify and invest in strategies to ensure every geographic region of the state can benefit from a strong manufacturing and research and development base, with the goal of doubling the state's manufacturing employment base, the number of small businesses, and the number of women and minority-

owned manufacturing businesses in the next 10 years. [2021 c 64 § 2.]

Short title—2021 c 64: "This act may be known and cited as the Washington BEST manufacturing act." [2021 c 64 § 1.]

43.330.762 Manufacturing—Goals and strategies—Reports—Manufacturing council. (1) The department is responsible for identifying and developing strategies to help achieve the goals established in RCW 43.330.760. In support of pursuing the goal, the department must prepare and update each fiscal biennium a report on the state of the manufacturing and research and development industry and workforce. The report must identify progress or challenges the state has encountered in achieving the goals established in RCW 43.330.760 and identify recommendations to the legislature.

(2) The report may include, but not be limited to:

(a) Recommendations for specific actions to develop a manufacturing workforce pipeline and specific manufacturing subsectors that present workforce opportunities or challenges;

(b) Identification of dislocated workers;

(c) Career connected learning opportunities;

(d) A survey of financial aid that can be leveraged to fund training for the manufacturing workforce pipeline, such as Washington college grant opportunities, passport to careers, and prison to postsecondary funding;

(e) Recommendations on improving the state's competitiveness for manufacturing and research and development job retention and creation;

(f) Identification of high-demand advanced manufacturing industries and subsectors globally;

(g) Identification of site selection criteria of advanced manufacturing and research and development projects; and

(h) Recommendations of best practices to streamline environmental permit approval and appeal processes for the purpose of getting manufacturing businesses who want to site or expand in Washington more certainty, faster.

(3) The department must convene a manufacturing council to advise and consult on the development of the report and recommendations.

(a) The director or the director's designee must appoint to the council such persons from the private, nonprofit, and public sectors as may best inform the state's ability to innovate, diversify supply chains, and expand living wage jobs in the manufacturing sector.

(b) Representatives must include small to mid-sized private sector manufacturing businesses, labor and apprenticeship programs, statewide business associations, higher education institutions, and workforce partners. The department must work to ensure:

(i) Equal representation of business and labor on the council;

(ii) That appointees represent every region of the state such that economic diversification across all regions is supported; and

(iii) That the council includes a strong array of voices from women and minority executives and labor in manufacturing.

(4) All state agencies with expertise in workforce development and economic development are encouraged to provide such information and resources as may be requested to

inform and facilitate identification and analysis of public policy challenges and potential recommendations for the report in subsections (1) and (2) of this section.

(5) In its first biennial report, the department shall coordinate with the office of the superintendent of public instruction and the state board for community and technical colleges to assess any inadequacy or gaps in delivering hands-on, skills-based learning remotely to all Washingtonians seeking to enter the manufacturing workforce or to be retrained for a transition within the manufacturing workforce. [2021 c 64 § 3.]

Short title—2021 c 64: See note following RCW 43.330.760.

43.330.765 Manufacturing—Regional strategies—Grants. (1) The department must support the development of regionally tailored strategies to facilitate the continued existence and development of [a] manufacturing workforce across the state.

(2) To support regional manufacturing cluster development and job creation, the department must grant any funding provided in RCW 43.330.767 for initiatives that accelerate the development of regional clusters intended to grow living wage jobs in manufacturing and research and development.

(3) The department is encouraged to consider the creation of regional offices or establishing additional duty stations that facilitate sector leads to be located in the regions most dependent on their sector. [2021 c 64 § 4.]

Short title—2021 c 64: See note following RCW 43.330.760.

43.330.767 Manufacturing cluster acceleration account. (1) The manufacturing cluster acceleration account is created in the state treasury. All receipts from appropriations made to the manufacturing cluster acceleration account shall be deposited into the account. Moneys in the account may be spent only after appropriation.

(2) The department may make expenditures from the account to support regional cluster acceleration strategies, including: Supporting projects to assist manufacturers to diversify their customer base and supply chain, supporting pilot or demonstration manufacturing projects coordination with organized cluster initiatives, and supporting projects that are intended to increase manufacturing and research and development jobs regionally.

(3) The department is encouraged to seek match funds for any funds appropriated to this account and may utilize funds to match nonstate funds being expended on a specific project that aligns with the purpose of this section. [2022 c 157 § 1; 2021 c 64 § 5.]

Short title—2021 c 64: See note following RCW 43.330.760.

43.330.770 Manufacturing—Workforce innovation sector lead—Reports. (1) The department must appoint a workforce innovation sector lead, to coordinate workforce activities and needs identified by industry sector leads such as the manufacturing, clean technology, and aerospace sector leads, and connect this work with the lead workforce agencies to inform strategic allocation of funding.

(2) Within existing resources, the department must report to the appropriate committees of the legislature beginning December 1, 2022, and continuing every fourth year thereafter, the progress made in developing, recruiting, and

retaining research and development employers and workforce; and a description of how the state's policy toolkit for developing strength in research and development as a sector compares to competitor states. [2021 c 64 § 6.]

Short title—2021 c 64: See note following RCW 43.330.760.

43.330.772 Subject to appropriation. The duties in RCW 43.330.760 through 43.330.770 are subject to the availability of amounts appropriated for the specific purpose. [2021 c 64 § 7.]

Short title—2021 c 64: See note following RCW 43.330.760.

CONSTRUCTION

43.330.900 References to director and department.

All references to the director or department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the director of commerce or the department of commerce. [2009 c 565 § 17; 1993 c 280 § 79.]

43.330.901 Captions. Captions used in this chapter do not constitute part of the law. [1993 c 280 § 83.]

43.330.902 Effective date—1993 c 280. Sections 1 through 7, 9 through 79, 82, and 83 of this act shall take effect March 1, 1994. [1994 c 5 § 2; 1993 c 280 § 86.]

43.330.9021 Effective date—1994 c 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect March 1, 1994. [1994 c 5 § 3.]

43.330.904 Transfer of certain state energy office powers, duties, and functions—References to director—Appointment of assistant director. (1) All powers, duties, and functions of the state energy office relating to energy resource policy and planning and energy facility siting are transferred to the *department of community, trade, and economic development. All references to the director or the state energy office in the Revised Code of Washington shall be construed to mean the director or the *department of community, trade, and economic development when referring to the functions transferred in this section.

The director shall appoint an assistant director for energy policy, and energy policy staff shall have no additional responsibilities beyond activities concerning energy policy.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state energy office pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the *department of community, trade, and economic development. All cabinets, furniture, office equipment, software, database, motor vehicles, and other tangible property employed by the state energy office in carrying out the powers, functions, and duties transferred shall be made available to the *department of community, trade, and economic development.

(b) Any appropriations made to the state energy office for carrying out the powers, functions, and duties transferred shall, on July 1, 1996, be transferred and credited to the

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*department of community, trade, and economic development.

(c) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, software, database, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the state energy office engaged in performing the powers, functions, and duties pertaining to the energy facility site evaluation council are transferred to the jurisdiction of the *department of community, trade, and economic development. All employees engaged in energy facility site evaluation council duties classified under chapter 41.06 RCW, the state civil service law, are assigned to the *department of community, trade, and economic development to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state energy office pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the *department of community, trade, and economic development. All existing contracts and obligations shall remain in full force and shall be performed by the *department of community, trade, and economic development.

(5) The transfer of the powers, duties, and functions of the state energy office does not affect the validity of any act performed before July 1, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of the office of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation.

(7) The *department of community, trade, and economic development shall direct the closure of the financial records of the state energy office.

(8) Responsibility for implementing energy education, applied research, and technology transfer programs rests with Washington State University. The *department of community, trade, and economic development shall provide Washington State University available existing and future oil over-charge restitution and federal energy block funding for a minimum period of five years to carry out energy programs under an interagency agreement with the *department of community, trade, and economic development. The interagency agreement shall also outline the working relationship between the *department of community, trade, and economic development and Washington State University as it pertains to the relationship between energy policy development and public outreach. Nothing in chapter 186, Laws of 1996 prohibits Washington State University from seeking grant, contract, or fee-for-service funding for energy or related programs directly from other entities. [1996 c 186 § 101.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Findings—Intent—1996 c 186: "The legislature finds responsibilities of state government need to be limited to core services in support of public

safety and welfare. Services provided by the Washington state energy office are primarily advisory and can be eliminated. The legislature further finds a need to redefine the state's role in energy-related regulatory functions. The state may be better served by allowing regulatory functions to be performed by other appropriate entities, simplifying state government while maintaining core services. Further, it is the intent of the legislature that the state continue to receive oil overcharge restitution funds for our citizens while every effort is being made to maximize federal funds available for energy conservation purposes." [1996 c 186 § 1.]

Additional notes found at www.leg.wa.gov

43.330.905 Transfer of powers, duties, and functions pertaining to county public health assistance. (1) All powers, duties, and functions of the department of commerce pertaining to county public health assistance are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director

of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 102.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.907 Transfer of powers, duties, and functions pertaining to administrative and support services for the building code council. (1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of enterprise services. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of enterprise services when referring to the functions transferred in this section. Policy and planning assistance functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the department of enterprise services.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of enterprise services under this section whose positions are within an existing bargaining unit description at the department of enterprise services shall become a part of the existing bargaining unit at the department of enterprise services and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2015 c 225 § 93; 2010 c 271 § 308.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.908 Transfer of powers, duties, and functions pertaining to the drug prosecution assistance program.

(1) All powers, duties, and functions of the department of commerce pertaining to the drug prosecution assistance program are transferred to the criminal justice training commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the criminal justice training commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the criminal justice training commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the criminal justice training commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the criminal justice training commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the criminal justice training commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

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(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the criminal justice training commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the criminal justice training commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the criminal justice training commission. All existing contracts and obligations shall remain in full force and shall be performed by the criminal justice training commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the criminal justice training commission under this section whose positions are within an existing bargaining unit description at the criminal justice training commission shall become a part of the existing bargaining unit at the criminal justice training commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 502.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.909 Transfer of powers, duties, and functions pertaining to the energy facility site evaluation council.

(1) All administrative powers, duties, and functions of the department of commerce pertaining to the energy facility site evaluation council are transferred to the Washington utilities and transportation commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the Washington utilities and transportation commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington utilities and transportation commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the Washington utilities and transportation commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington utilities and transportation commission.

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(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on July 1, 2010, be transferred and credited to the Washington utilities and transportation commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington utilities and transportation commission. All existing contracts and obligations shall remain in full force and shall be performed by the Washington utilities and transportation commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before July 1, 2010.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the Washington utilities and transportation commission under this section whose positions are within an existing bargaining unit description at the Washington utilities and transportation commission shall become a part of the existing bargaining unit at the Washington utilities and transportation commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2010 c 271 § 602.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

43.330.910 Transfer of certain powers, duties, and functions of the department of information services—High-speed internet activities. (1) All powers, duties, and functions of the department of information services pertaining to high-speed internet activities are transferred to the department of commerce. All references to the director or the department of information services in the Revised Code of Washington shall be construed to mean the director or the department of commerce when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services in carrying out the powers, functions, and duties transferred shall be made available to the department of commerce. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of commerce.

(b) Any appropriations made to the department of information services for carrying out the powers, functions, and duties transferred shall, on October 1, 2011, be transferred and credited to the department of commerce.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of information services engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of commerce. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of commerce to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of information services pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(5) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before October 1, 2011.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of information services assigned to the department of commerce under this section whose positions are within an existing bargaining unit description at the department of commerce shall become a part of the existing bargaining unit at the department of commerce and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW. [2011 1st sp.s. c 43 § 1008.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

43.330.911 Short title—2015 c 69. This act may be known and cited as the "homeless youth prevention and protection act." [2015 c 69 § 2.]

43.330.912 Conflict with federal requirements—2015 c 296. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [2015 c 296 § 11.]

Chapter 43.330A RCW

OFFICE OF FIREARM SAFETY AND VIOLENCE PREVENTION

Sections

43.330A.010	Definitions.
43.330A.020	Created—Duties—Reports.
43.330A.030	Statewide helpline, counseling, and referral service.
43.330A.040	Best practice guide for therapy for gun violence victims.
43.330A.050	Firearm violence intervention and prevention grant program.

43.330A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Office" means the Washington office of firearm safety and violence prevention. [2020 c 313 § 2.]

Finding—Intent—2020 c 313: See note following RCW 43.330A.020.

43.330A.020 Created—Duties—Reports. (1) The Washington office of firearm safety and violence prevention is created within the department for the purposes of coordinating and promoting effective state and local efforts to reduce firearm violence.

(2) The duties of the office include, but are not limited to:

(a) Working with law enforcement agencies, county prosecutors, researchers, and public health agencies throughout the state to identify and improve upon available data sources, data collection methods, and data-sharing mechanisms. The office will also identify gaps in available data needed for ongoing analysis, policy development, and the implementation of evidence-based firearm violence intervention and prevention strategies;

(b) Researching, identifying, and recommending legislative policy options to promote the implementation of statewide evidence-based firearm violence intervention and prevention strategies;

(c) Researching, identifying, and applying for nonstate funding to aid in the research, analysis, and implementation of statewide firearm violence intervention and prevention strategies;

(d) Working with the office of crime victim[s] advocacy to identify opportunities to better support victims of firearm violence, a population that is currently underrepresented among recipients of victim services;

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(e) Contract [Contracting] for a statewide helpline, counseling, and referral services for victims, friends, and family members impacted by gun violence and community professionals and providers who engage with them;

(f) Contract [Contracting] with the University of Washington to develop a best practice guide for therapy for gun violence victims;

(g) Administering the Washington firearm violence intervention and prevention grant program as outlined in RCW 43.330A.050.

(3) The office shall report to the appropriate legislative policy committees by December 1st every odd-numbered year on its progress and findings in analyzing data, developing strategies to prevent firearm violence, and recommendations for additional legislative policy options. The first report must be submitted by December 1, 2021. [2020 c 313 § 3.]

Finding—Intent—2020 c 313: "The legislature finds that firearm violence is a significant public health and safety concern in Washington. From 2014 to 2018, over one thousand people in Washington were murdered and well over half of those victims were murdered with a gun. Thousands more were hospitalized or treated in emergency departments after surviving gunshot injuries. The legislature recognizes that firearm violence in Washington disproportionately impacts low-income communities and communities of color, with young men of color being particularly vulnerable. This violence imposes a high physical, emotional, and financial toll on families and communities across the state. In Washington, the overall estimate of the annual economic cost of gun violence is three billion eight hundred million dollars.

The legislature recognizes that rates of suicide have been growing in the United States as well as in the state of Washington. Seventy-nine percent of all firearm deaths in Washington state are suicides. More people die of suicide by firearm than by all other means combined.

The legislature intends to establish the Washington office of firearm safety and violence prevention to provide statewide leadership, coordination, and technical assistance to promote effective state and local efforts to reduce preventable injuries and deaths from firearm violence. The office will work with government entities, law enforcement agencies, community-based organizations, and individuals through the state to develop evidence-based policies, strategies, and interventions to reduce the impacts of firearm violence in Washington's communities. The office will also administer the Washington firearm violence intervention and prevention grant program which will provide for intentional, coordinated, and sustained investments in evidence-based violence reduction strategies to reduce the human and financial costs of firearm violence and enhance firearm safety." [2020 c 313 § 1.]

43.330A.030 Statewide helpline, counseling, and referral service. Subject to the availability of amounts appropriated for this specific purpose, the office shall contract with a level one trauma center in the state of Washington to provide a statewide helpline, counseling, and referral service for victims, friends, and family members impacted by gun violence and community professionals, legal practitioners, health providers, and others who engage with them. The service must be developed in consultation with the office of crime victims advocacy established in RCW 43.280.080, and include the opportunity for brief clinical encounters, problem solving, and referral to the best statewide resources available to meet their needs. The service must become conversant with providers across the state that are trained in evidence-based trauma therapy and establish relationships to ensure specific knowledge of available resources. The office of crime victims advocacy established in RCW 43.280.080 must provide consultation within existing resources. [2020 c 313 § 4.]

Finding—Intent—2020 c 313: See note following RCW 43.330A.020.

43.330A.040 Best practice guide for therapy for gun violence victims. The office shall contract with the University of Washington department of psychiatry and behavioral sciences to develop a best practice guide for therapy for gun violence victims in collaboration with the Harborview center for sexual assault and traumatic stress. The guide must summarize the state of the knowledge in this area and provide recommendations for areas of focus and action that are meaningful and practical for different constituencies. The guide must be made available to the public online and disseminated across the state to appropriate entities including but not limited to medical examiner's offices, prosecuting attorneys, level one and level two trauma centers, and victim support organizations. [2020 c 313 § 5.]

Finding—Intent—2020 c 313: See note following RCW 43.330A.020.

43.330A.050 Firearm violence intervention and prevention grant program. (1) The Washington firearm violence intervention and prevention grant program is created to be administered by the office. The purpose of the program is to improve public health and safety by supporting effective firearm violence reduction initiatives in communities that are disproportionately affected by firearm violence including suicides.

(2) Program grants shall be used to support, expand, and replicate evidence-based violence reduction initiatives, including hospital-based violence intervention programs, evidence-based street outreach programs, and focused deterrence strategies, that seek to interrupt the cycles of violence, victimization, and retaliation in order to reduce the incidence of firearm violence. These initiatives must be primarily focused on providing violence intervention services to the small segment of the population that is identified as having the highest risk of perpetrating or being victimized by firearm violence.

(3) Program grants shall be made on a competitive basis to cities that are disproportionately impacted by violence, to law enforcement agencies in those cities, and to community-based organizations that serve the residents of those cities. Where appropriate, two or more cities may submit joint applications to better address regional problems.

(4) An applicant for a program grant shall submit a proposal, in a form prescribed by the office, which must include, but not be limited to, all of the following:

(a) Clearly defined and measurable objectives for the grant;

(b) A statement describing how the applicant proposes to use the grant to implement an evidence-based firearm violence reduction initiative in accordance with this section;

(c) A statement describing how the applicant proposes to use the grant to enhance coordination of existing violence prevention and intervention programs and minimize duplication of services; and

(d) Evidence indicating that the proposed firearm violence reduction initiative would likely reduce the incidence of firearm violence.

(5) In awarding program grants, the office shall give preference to applicants whose grant proposals demonstrate the greatest likelihood of reducing firearm violence in the applicant's community, without contributing to mass incarceration.

(6) Each city that receives a program grant shall distribute no less than fifty percent of the grant funds to one or more of any of the following types of entities:

(a) Community-based organizations;

(b) Indian tribes and tribal organizations; and

(c) Public agencies or departments that are primarily dedicated to community safety or firearm violence prevention.

(7) The office shall form a grant selection advisory committee including, without limitation, persons who have been impacted by violence, formerly incarcerated persons, and persons with direct experience in implementing evidence-based violence reduction initiatives, including initiatives that incorporate public health and community-based approaches.

(8) Each grantee shall report to the office, in a form and at intervals prescribed by the office, the grantee's progress in achieving the grant objectives.

(9) The office may contract with an independent entity with expertise in evaluating community-based grant-funded programs to evaluate the grant program's effectiveness. [2020 c 313 § 6.]

Finding—Intent—2020 c 313: See note following RCW 43.330A.020.

Chapter 43.331 RCW

JOB ACT—PUBLIC FACILITIES CAPITAL IMPROVEMENTS—ENERGY, UTILITY, AND OPERATIONAL COST SAVINGS

Sections

- 43.331.040 Program administration by department of commerce, in consultation with department of enterprise services and Washington State University energy program—Definitions.
- 43.331.050 Competitive grant process—Audit—Administrative fees—Reports to the legislature.
- 43.331.900 Referral to people—Spending restriction—Ballot title—2010 1st sp.s. c 35 §§ 101 through 203 and 401 through 405.

43.331.040 Program administration by department of commerce, in consultation with department of enterprise services and Washington State University energy program—Definitions. (1) The department of commerce, in consultation with the department of enterprise services and the Washington State University energy program, shall administer the jobs act.

(2) The department of enterprise services must develop guidelines that are consistent with national and international energy savings performance standards for the implementation of energy savings performance contracting projects by the energy savings performance contractors by December 31, 2010.

(3) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Cost-effectiveness" means that the present value to higher education institutions and school districts of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(c) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.

(e) "Innovative measures" means advanced or emerging technologies, systems, or approaches that may not yet be in common practice but improve energy efficiency, accelerate deployment, or reduce energy usage, and become widely commercially available in the future if proven successful in demonstration programs without compromising the guaranteed performance or measurable energy and operational cost savings anticipated. Examples of innovative measures include, but are not limited to, advanced energy and systems operations monitoring, diagnostics, and controls systems for buildings; novel heating, cooling, ventilation, and water heating systems; advanced windows and insulation technologies, highly efficient lighting technologies, designs, and controls; and integration of renewable energy sources into buildings, and energy savings verification technologies and solutions.

(f) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(g) "Public facilities" means buildings, building components, and major equipment or systems owned by public school districts and public higher education institutions. [2015 c 225 § 94; 2010 1st sp.s. c 35 § 301.]

*Reviser's note: Second Engrossed Substitute Senate Bill No. 6143 became chapter 23, Laws of 2010 1st sp. sess.

Additional notes found at www.leg.wa.gov

43.331.050 Competitive grant process—Audit—Administrative fees—Reports to the legislature. (1)

Within appropriations specifically provided for the purposes of this chapter, the department of commerce, in consultation with the department of enterprise services, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from public school districts, public higher education institutions, and other state agencies. Final grant awards shall be determined by the department of commerce.

(2) Grants must be awarded in competitive rounds, based on demand and capacity, with at least five percent of each grant round awarded to small public school districts with fewer than one thousand full-time equivalent students, based on demand and capacity.

(2022 Ed.)

(3) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state jobs act grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis must be performed by a licensed engineer and documentation must include but is not limited to the following:

(i) A description of the energy equipment and improvements;

(ii) A description of the energy and operational cost savings; and

(iii) A description of the extent to which the project employs collaborative and innovative measures and encourages demonstration of new and emerging technologies with high energy savings or energy cost reductions.

(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(4) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings, as defined in RCW 43.331.040, for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of enterprise services' energy savings performance contracting project guidelines developed pursuant to RCW 43.331.040; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of enterprise services through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of enterprise services through a request for qualifications, a licensed engineer specializing in energy conservation, or by a project resource conservation manager or educational service district resource conservation manager.

(5) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(6) To match federal grants and programs that require state matching funds and produce significantly higher efficiencies in operations and utilities, the level of innovation criteria may be increased for the purposes of weighted scoring to capture those federal dollars for selected projects that require a higher level of innovation and regional collaboration.

(7) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(8)(a) The department of commerce must use bond proceeds to pay one-half of the preliminary audit, up to five cents

per square foot, if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the other one-half of the cost of the preliminary audit if the project does not meet their predetermined cost-effectiveness criteria.

(b) The energy savings performance contractor may not charge for an investment grade audit if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the full price of an investment grade audit if they do not proceed with a project that meets the school district's and higher education institution's predetermined cost-effectiveness criteria.

(9) The department of commerce may charge projects administrative fees and may pay the department of enterprise services and the Washington State University energy program administration fees in an amount determined through a memorandum of understanding.

(10) The department of commerce and the department of enterprise services must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship utilization requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled. [2015 c 225 § 95; 2010 1st sp.s. c 35 § 302.]

Additional notes found at www.leg.wa.gov

43.331.900 Referral to people—Spending restriction—Ballot title—2010 1st sp.s. c 35 §§ 101 through 203 and 401 through 405. (1) The secretary of state shall submit sections 101 through 203 and 401 through 405 of this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 and Article VIII, section 3 of the state Constitution and the laws adopted to facilitate their operation.

(2) If the people ratify this act as specified under subsection (1) of this section, revenues generated shall be spent as detailed in this act.

(3) Pursuant to *RCW 29A.72.050(6), the statement of subject and concise description for the ballot title shall read: "The legislature has passed Engrossed House Bill No. 2561 (this act), concerning job creation through energy efficiency projects in school buildings. This bill would promote job creation by authorizing bonds to construct energy efficiency savings improvements to schools, including higher education buildings." [2010 1st sp.s. c 35 § 501.]

*Reviser's note: RCW 29A.72.050 was amended by 2022 c 114 § 3, changing subsection (6) to subsection (7).

Additional notes found at www.leg.wa.gov

Chapter 43.332 RCW OFFICE OF THE WASHINGTON STATE TRADE REPRESENTATIVE

Sections

43.332.005 Findings—Purpose.

[Title 43 RCW—page 864]

43.332.010 Office created—Duties.

43.332.020 Gifts, grants—Bank account.

43.332.005 Findings—Purpose. (1) The legislature finds that:

(a) The expansion of international trade is vital to the overall growth of Washington's economy;

(b) On a per capita basis, Washington state is the most international trade dependent state in the nation;

(c) The North American free trade agreement (NAFTA) and the general agreement on tariffs and trade (GATT) highlight the increased importance of international trade opportunities to the United States and the state of Washington;

(d) The passage of NAFTA and GATT will have a major impact on the state's agriculture, aerospace, computer software, and textiles and apparel sectors;

(e) There is a need to strengthen and coordinate the state's activities in promoting and developing its agricultural, manufacturing, and service industries overseas, especially for small and medium-sized businesses, and minority and women-owned business enterprises; and

(f) The importance of having a coherent vision for advancing Washington state's interest in the global economy has rarely been so consequential as it is now.

(2) The legislature declares that the purpose of the office of the Washington state trade representative is to:

(a) Strengthen and expand the state's activities in marketing its goods and services overseas;

(b) Review and analyze proposed international trade agreements to assess their impact on goods and services produced by Washington businesses; and

(c) Inform the legislature about ongoing trade negotiations, trade development, and the possible impacts on Washington's economy. [2003 c 346 § 1; 1995 c 350 § 1.]

43.332.010 Office created—Duties. (1) The office of the Washington state trade representative is created in the office of the governor. The office shall serve as the state's official liaison with foreign governments on trade matters.

(2) The office shall:

(a) Work with the *department of community, trade, and economic development, the department of agriculture, and other appropriate state agencies, and within the agencies' existing resources, review and analyze proposed and enacted international trade agreements and provide an assessment of the impact of the proposed or enacted agreement on Washington's businesses and firms;

(b) Provide input to the office of the United States trade representative in the development of international trade, commodity, and direct investment policies that reflect the concerns of the state of Washington;

(c) Serve as liaison to the legislature on matters of trade policy oversight including, but not limited to, updates to the legislature regarding the status of trade negotiations, trade litigation, and the impacts of trade policy on Washington state businesses;

(d) Work with the international trade division of the *department of community, trade, and economic development and the international marketing program of the Washington state department of agriculture to develop a statewide strategy designed to increase the export of Washington goods

and services, particularly goods and services from small and medium-sized businesses; and

(e) Conduct other activities the governor deems necessary to promote international trade and foreign investment within the state.

(3) The office shall prepare and submit an annual report on its activities under subsection (2) of this section to the governor and appropriate committees of the legislature. [2003 c 346 § 2; 1995 c 350 § 2.]

Reviser's note: *(1) The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

(2) Substitute House Bill No. 1059, Substitute House Bill No. 1173, and Engrossed Substitute House Bill No. 1827 were enacted during the 2003 regular session of the legislature, but were vetoed in part by the governor. A stipulated judgment, No. 03-2-01988-4 filed in the Superior Court of Thurston County, between the governor and the legislature, settled litigation over the governor's use of veto powers and declared the vetoes of SHB 1059, SHB 1173, and ESHB 1827 null and void. Consequently, the text of this section has been returned to the version passed by the legislature prior to the vetoes. For vetoed text and message, see chapter 346, Laws of 2003.

43.332.020 Gifts, grants—Bank account. The office of the Washington state trade representative may accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this section. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [2003 c 346 § 3.]

Chapter 43.334 RCW

DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Sections

43.334.010	Department created—Definitions.
43.334.020	Director—Appointment—Salary.
43.334.030	Director powers and duties.
43.334.040	Departmental divisions.
43.334.050	Deputy director—Department personnel director—Assistant directors.
43.334.060	Director's delegation of powers and duties.
43.334.070	Advisory committees or councils.
43.334.075	State physical anthropologist—Appointment—Responsibilities—Support staff.
43.334.077	Skeletal human remains assistance account.
43.334.080	Federal and state cooperation—Rules—Construction.
43.334.900	Transfer of powers, duties, and functions.

43.334.010 Department created—Definitions. (1) There is created a department of state government to be known as the department of archaeology and historic preservation. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

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

(a) "Department" means the department of archaeology and historic preservation.

(b) "Director" means the director of the department of archaeology and historic preservation. [2005 c 333 § 1.]

(2022 Ed.)

43.334.020 Director—Appointment—Salary. The executive head and appointing authority of the department is the director. The director shall serve as the state historic preservation officer, and shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington. The director shall be appointed by the governor, with the consent of the senate, and serves at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate. [2005 c 333 § 2.]

43.334.030 Director powers and duties. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the director in order that the director may institute therein the flexible, alert, and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever the director's authority is not specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create such administrative structures as the director considers appropriate, except as otherwise specified by law. The director may employ such assistants and personnel as necessary for the general administration of the department. This employment shall be in accordance with the state civil service law, chapter 41.06 RCW, except as otherwise provided. [2005 c 333 § 3.]

43.334.040 Departmental divisions. If necessary, the department may be subdivided into divisions. Except as otherwise specified or as federal requirements may differently require, divisions shall be established and organized in accordance with plans to be prepared by the director and approved by the governor. In preparing the plans, the director shall endeavor to promote efficient public management and to improve programs. [2005 c 333 § 4.]

43.334.050 Deputy director—Department personnel director—Assistant directors. The director shall appoint a deputy director, a department personnel director, and assistant directors as needed to administer the department. The deputy director is responsible for the general supervision of the department in the absence or disability of the director and, in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor appoints an acting director. [2005 c 333 § 5.]

43.334.060 Director's delegation of powers and duties. Any power or duty vested in or transferred to the director by law or executive order may be delegated by the director to the deputy director or to any other assistant or subordinate; but the director is responsible for the official acts of the officers and employees of the department. [2005 c 333 § 6.]

43.334.070 Advisory committees or councils. The director may appoint advisory committees or councils as

required by any federal legislation as a condition to the receipt of federal funds by the department. The director may also appoint statewide committees or councils on those subject matters as are or come within the department's responsibilities. The statewide committees and councils shall have representation from both major political parties and shall have substantial consumer representation. The committees or councils shall be constituted as required by federal law or as the director may determine. The members of the committees or councils shall hold office as follows: One-third to serve one year; one-third to serve two years; and one-third to serve three years. Upon expiration of the original terms, subsequent appointments shall be for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2005 c 333 § 7.]

43.334.075 State physical anthropologist—Appointment—Responsibilities—Support staff. (1) The director shall appoint a state physical anthropologist. At a minimum, the state physical anthropologist must have a doctorate in either archaeology or anthropology and have experience in forensic osteology or other relevant aspects of physical anthropology and must have at least one year of experience in laboratory reconstruction and analysis. A medical degree with archaeological experience in addition to the experience required may substitute for a doctorate in archaeology or anthropology.

(2) The state physical anthropologist has the primary responsibility of investigating, preserving, and, when necessary, removing and reintering discoveries of nonforensic skeletal human remains. The state physical anthropologist is available to any local governments or any federally recognized tribal government within the boundaries of Washington to assist in determining whether discovered skeletal human remains are forensic or nonforensic.

(3) The director shall hire staff as necessary to support the state physical anthropologist to meet the objectives of this section.

(4) For the purposes of this section, "forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010. [2008 c 275 § 4.]

Additional notes found at www.leg.wa.gov

43.334.077 Skeletal human remains assistance account. The skeletal human remains assistance account is created in the custody of the state treasurer. All appropriations provided by the legislature for this purpose as well as any reimbursement for services provided pursuant to chapter 275, Laws of 2008 must be deposited in the account. Expenditures from the account may be used only for archaeological determinations and excavations of inadvertently discovered skeletal human remains, and removal and reinterment of such remains when necessary. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter

43.88 RCW, but an appropriation is not required for expenditures. [2008 c 275 § 7.]

Additional notes found at www.leg.wa.gov

43.334.080 Federal and state cooperation—Rules—Construction. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, rules as may become necessary to entitle the state to participate in federal funds may be adopted, unless expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements that are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements that are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, the conflicting part is declared to be inoperative solely to the extent of the conflict. [2005 c 333 § 8.]

43.334.900 Transfer of powers, duties, and functions. (1) The office of archaeology and historic preservation is hereby abolished and its powers, duties, and functions are hereby transferred to the department of archaeology and historic preservation.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of archaeology and historic preservation shall be delivered to the custody of the department of archaeology and historic preservation. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of archaeology and historic preservation shall be made available to the department of archaeology and historic preservation. All funds, credits, or other assets held by the office of archaeology and historic preservation shall be assigned to the department of archaeology and historic preservation.

(b) Any appropriations made to the office of archaeology and historic preservation shall, on July 24, 2005, be transferred and credited to the department of archaeology and historic preservation.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the office of archaeology and historic preservation are transferred to the jurisdiction of the department of archaeology and historic preservation. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of archaeology and historic preservation to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the office of archaeology and historic preservation shall be continued and acted upon by the department of archaeology and historic preservation. All existing contracts and obligations shall remain in full force and shall be performed by the department of archaeology and historic preservation.

(5) The transfer of the powers, duties, functions, and personnel of the office of archaeology and historic preservation shall not affect the validity of any act performed before July 24, 2005.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel resources board as provided by law. [2005 c 333 § 12.]

Chapter 43.340 RCW

TOBACCO SETTLEMENT AUTHORITY

Sections

43.340.005	Purpose—Construction.
43.340.010	Definitions.
43.340.020	Tobacco settlement authority—Governing board—Meetings—Staff support.
43.340.030	Tobacco settlement authority—Powers—Rule-making authority.
43.340.040	Financing powers.
43.340.050	Bonds.
43.340.060	Bonds—Obligations of authority—Not obligations of state.
43.340.070	Bonds—Legal investments.
43.340.080	Sale of rights in master settlement agreement.
43.340.090	Limitation of liability.
43.340.100	Bankruptcy—Contractual obligation to contain section.
43.340.110	Dissolution of authority.
43.340.130	Appeals bonds—Amounts.
43.340.902	Effective date—2002 c 365.

43.340.005 Purpose—Construction. The legislature declares it to be the public policy of the state and a recognized governmental function to assist in securitizing the revenue stream from the master settlement agreement between the state and tobacco product manufacturers in order to provide a current and reliable source of revenue for the state. The purpose of this chapter is to establish a tobacco settlement authority having the power to purchase certain rights of the state under the master settlement agreement and to issue non-recourse revenue bonds to pay outstanding obligations of the state in order to make funds available for increased costs of health care, long-term care, and other programs of the state. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof. [2002 c 365 § 1.]

43.340.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the tobacco settlement authority created in this chapter.

(2) "Board" means the governing board of the authority.

(3) "Bonds" means bonds, notes, and other obligations and financing arrangements issued or entered into by the authority under this chapter.

(4) "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

(5) "Sales agreement" means any agreement authorized under this chapter in which the state provides for the sale to the authority of a portion of the payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement. [2002 c 365 § 2.]

43.340.020 Tobacco settlement authority—Governing board—Meetings—Staff support. (1) The tobacco settlement authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

(2) The powers of the authority are vested in and shall be exercised by a board consisting of five directors appointed by the governor, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the authority and as chair of the authority at the pleasure of the governor. The governor shall make the initial appointments no later than thirty days after April 4, 2002. The term of the directors, other than the chair, shall be four years from the date of their appointment, except that the terms of two of the initial appointees, as determined by the governor, shall be for two years from the date of their appointment. A director may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The members of the authority shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060.

(3) Three members of the board constitute a quorum.

(4) The members shall elect a treasurer and secretary annually, and other officers as the members determine necessary.

(5) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the members so requests. Meetings of the board may be held at any location within or out of the state, and members of the board may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(6) The staff of the state housing finance commission under chapter 43.180 RCW shall provide administrative and staff support to the authority and shall be compensated for its

services solely from the funds of the authority. [2002 c 365 § 3.]

43.340.030 Tobacco settlement authority—Powers—Rule-making authority. (1) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may:

- (a) Sue and be sued in its own name;
 - (b) Make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with this chapter;
 - (c) Employ, contract with, or engage independent counsel, bond counsel, other attorneys, financial advisors, investment bankers, auditors, other technical or professional assistants, and such other personnel as are necessary and recommended by the state housing finance commission staff;
 - (d) Invest or deposit moneys of the authority in any manner determined by the authority and enter into hedge agreements, swap agreements, or other financial products, including payment agreements defined under RCW 39.96.020(5). The authority is not a governmental entity for purposes of chapter 39.96 RCW;
 - (e) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;
 - (f) Procure insurance, other credit enhancements, and other financing arrangements for its bonds to fulfill its purposes under this chapter, including but not limited to municipal bond insurance and letters of credit;
 - (g) Accept appropriations, gifts, grants, loans, or other aid from public or private entities;
 - (h) Adopt rules, consistent with this chapter, as the board determines necessary;
 - (i) Delegate any of its powers and duties if consistent with the purposes of this chapter; and
 - (j) Exercise any other power reasonably required to implement the purposes of this chapter.
- (2) The authority does not have the power of eminent domain and does not have the power to levy taxes of any kind. [2002 c 365 § 6.]

43.340.040 Financing powers. In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

- (1) Establish a stable source of revenue to be used for the purposes designated in this chapter;
- (2) Enter into sales agreements with the state for purchase of a portion of the amounts otherwise due to the state under the master settlement agreement, and of the state's rights to receive such amounts;
- (3) Issue bonds, the interest and gain on which may or may not be exempt from general federal income taxation, in one or more series, and to refund or refinance its debt and obligations;
- (4) Sell, pledge, or assign, as security, all or a portion of the revenues derived by the authority under any sales agreement, to provide for and secure the issuance of its bonds;
- (5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Manage its funds, obligations, and investments as necessary and as consistent with its purpose; and

(7) Implement the purposes of this chapter. [2002 c 365 § 5.]

43.340.050 Bonds. (1) The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its purposes, the payment of debt service on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds and credit enhancements, if any, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

(2) The authority's bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be taxable or tax exempt, be payable at such time or times, and be sold in such manner and at such price or prices, as the authority determines. The bonds shall be executed by one or more officers of the authority, and by the trustee or paying agent if the authority determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature, provided that at least one signature on the bond is manual.

(3) The bonds of the authority shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the authority, including, but not limited to, pledges of the authority's assets, setting aside of reserves, and other provisions the authority finds are necessary or desirable for the security of bondholders.

(4) Any revenue pledged by the authority to be received under the sales agreement or in special funds created by the authority shall be valid and binding at the time the pledge is made. Receipts so pledged and then or thereafter received by the authority and any securities in which such receipts may be invested shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution or indenture of the authority or any other instrument by which a pledge is created need not be recorded or filed pursuant to chapter 62A.9A RCW to perfect such pledge. The authority shall constitute a governmental unit within the meaning of RCW 62A.9A-102.

(5) When issuing bonds, the authority may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The authority may issue refunding bonds in

accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds.

(6) The board and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The authority may, out of any fund available therefor, purchase its bonds in the open market. [2011 c 74 § 702; 2002 c 365 § 8.]

Additional notes found at www.leg.wa.gov

43.340.060 Bonds—Obligations of authority—Not obligations of state. (1) Bonds issued under this chapter shall be issued in the name of the authority. The bonds shall not be obligations of the state of Washington and shall be obligations only of the authority, payable solely from the special fund or funds created by the authority for their payment.

(2) Bonds issued under this chapter shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds shall be a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the authority as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds.

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state of Washington. The obligations of the authority under the contracts shall be obligations only of the authority and are not in any way obligations of the state of Washington. [2002 c 365 § 4.]

43.340.070 Bonds—Legal investments. Bonds issued under this chapter are hereby made securities in which all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. [2002 c 365 § 9.]

43.340.080 Sale of rights in master settlement agreement. (1) The governor is authorized to sell and assign to the authority all of the state's right to receive a portion of the state's annual share of the revenue derived from the master settlement agreement for litigation brought by the state against tobacco product manufacturers. The portion of the state's share sold and assigned shall be determined by the governor in an amount necessary to generate net proceeds to the state for deposit to the tobacco securitization trust account under *RCW 43.340.120 up to four hundred fifty million dollars. The attorney general shall assist the governor in the review of all necessary documentation to effect the sale. The governor and the authority are authorized to take any action necessary to facilitate and complete the sale.

(2) The sale made under this section is irrevocable so long as bonds issued under this chapter remain outstanding.

(2022 Ed.)

The portion of the revenue sold to the authority shall be pledged to the bondholders. The sale and assignment shall constitute and be treated as a true sale and absolute transfer of the revenue so transferred and not as a pledge or other security interest granted by the state for any borrowing. The characterization of such a sale as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the revenue from the master settlement agreement is being sold and assigned, or by the state's acquisition or retention of an ownership interest in the portion of the revenue from the master settlement agreement not so assigned.

(3) In addition to such other terms, provisions, and conditions as the governor and the authority may determine appropriate for inclusion in the sale agreements, the sale agreements shall contain (a) a covenant of the state that the state will not agree to any amendment of the master settlement agreement that materially and adversely affects the authority's ability to receive the portion of the state's share of master settlement agreement payments that have been sold to the authority; (b) a requirement that the state enforce, at its own expense, the provisions of the master settlement agreement that require the payment of the portion of the state's share of master settlement agreement payments that have been sold to the authority; and (c) a covenant that the state shall take no action that would adversely affect the tax-exempt status of any tax exempt bonds of the authority.

(4) On or after the effective date of the sale, the state shall not have any right, title, or interest in the portion of the state's share of the master settlement agreement revenue sold and such portion shall be the property of the authority and not the state, and shall be owned, received, held, and disbursed by the authority or its trustee or assignee, and not the state.

(5) The terms of the state's sale to the authority of a portion of the master settlement agreement revenue shall provide that the portion shall be paid directly to the authority or its trustee or assignee. The revenue sold and assigned shall not be received in the treasury of the state and shall not be or deemed to be general state revenues as that term is used in Article VIII, section 1 of the state Constitution. [2002 c 365 § 7.]

*Reviser's note: RCW 43.340.120 was repealed by 2012 c 198 § 26.

43.340.090 Limitation of liability. Members of the board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter. [2002 c 365 § 10.]

43.340.100 Bankruptcy—Contractual obligation to contain section. Prior to the date that is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor under chapter 9 or any successor or corresponding chapter or sections during such periods. This section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contrac-

tual obligation shall not subsequently be modified by state law during the period of the contractual obligation. [2002 c 365 § 11.]

43.340.110 Dissolution of authority. The authority shall dissolve no later than two years from the date of final payment of all of its outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the state general fund, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement. [2002 c 365 § 12.]

43.340.130 Appeals bonds—Amounts. (1) Except as provided in subsection (2) of this section, in order to secure and protect the moneys to be received as a result of the master settlement agreement in civil litigation under any legal theory involving a signatory, a successor of a signatory, or any affiliate of a signatory to the master settlement agreement, the supersedeas bond to be furnished in order to stay the execution of the judgment during the entire course of appellate review shall be set in accordance with applicable laws or court rules, except that the total bond that is required of all appellants collectively shall not exceed one hundred million dollars, regardless of the value of the judgment.

(2) If an appellee proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid the payment of a judgment, a court may require the appellant to post a bond in an amount up to the amount of the judgment. [2006 c 246 § 2.]

Findings—Intent—2006 c 246: "(1) The legislature finds that:

(a) Over the past five years, Washington has received more than seven hundred million dollars from the tobacco master settlement agreement;

(b) While the state has securitized a portion of the moneys it was promised under the master settlement agreement, the remainder of the master settlement agreement payments is used to fund important health programs such as the state's basic health plan, children's health insurance, childhood vaccines, and public health;

(c) Litigation now pending in the state or filed in the future could result in damage awards against master settlement agreement signatories or their successors or affiliates that are so large that the defendants could obtain a stay of the execution of the judgment while they appeal only by declaring bankruptcy, rather than posting an appeal bond under state law;

(d) Should a master settlement agreement signatory declare bankruptcy, issues might be raised about whether that disrupts or jeopardizes the payments that fund important state programs;

(e) The legislature has the substantive obligation to raise revenue and to protect the financial well-being of the state and its citizens. Pursuant to that obligation, it is the legislature's responsibility to ensure the continued receipt of master settlement agreement funds to the maximum extent possible.

(2) Therefore, the legislature intends to place a maximum limit on the appeal bond a master settlement agreement signatory or a successor or affiliate of a master settlement agreement signatory can be required to post in litigation in order to stay execution of the judgment without being forced into bankruptcy while it exercises its right to appeal an adverse judgment." [2006 c 246 § 1.]

Additional notes found at www.leg.wa.gov

43.340.902 Effective date—2002 c 365. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its

existing public institutions, and takes effect immediately [April 4, 2002]. [2002 c 365 § 19.]

Chapter 43.348 RCW

ANDY HILL CANCER RESEARCH ENDOWMENT

(Formerly: Cancer Research Endowment Authority)

Sections

43.348.005	Findings—Intent.
43.348.010	Definitions.
43.348.020	Andy Hill cancer research endowment.
43.348.030	Endowment—General powers.
43.348.040	Andy Hill cancer research endowment program.
43.348.050	Independent expert scientific review and advisory committee—Created—Grant proposal evaluations and recommendations.
43.348.060	Program administrator—Andy Hill cancer research fund—Independent auditor.
43.348.070	Charitable contributions.
43.348.080	Andy Hill cancer research endowment fund match transfer account.

43.348.005 Findings—Intent. (1) The legislature finds the following:

(a) Washington has an existing infrastructure of world-class cancer research and care centers for children and adults that can develop and apply new techniques for the prevention of cancer and care of cancer patients throughout Washington;

(b) Sustained investment in cancer research, prevention, and care is critical to reducing long-term health costs, saving lives, and relieving pain and suffering;

(c) Promoting the health of state residents is a fundamental public purpose and governmental function. Action to promote cancer research and prevention to improve the quality of life of the people of Washington is consistent with this fundamental public purpose; and

(d) Additional public resources dedicated exclusively to cancer research will provide sustained investment in cancer research to the benefit of the people of Washington.

(2) It is the intent of the legislature in enacting chapter 34, Laws of 2015 3rd sp. sess. to:

(a) Optimize the use of public funds by giving priority to research utilizing the best science and technology with the greatest potential to improve health outcomes;

(b) Increase the value of our public investments by leveraging our state's existing cancer research facilities and talent, as well as clinical and therapeutic resources;

(c) Incentivize additional investment by requiring private or other nonstate resources to match public funds;

(d) Protect and benefit Washington taxpayers by funding proposals for cancer research that are reviewed by an independent scientific panel;

(e) Require fiscal and public accountability through independent audits, open public meetings and hearings, and annual reports to the public; and

(f) Create jobs and encourage investments that will generate new tax revenues in our state, and advance the biotech, medical device, and health care information technology industries in Washington. [2015 3rd sp.s. c 34 § 1.]

43.348.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the governing board of the endowment.

(2) "Cancer" means a group of diseases involving unregulated cell growth.

(3) "Cancer patient advocacy organizations" means groups with offices in the state that promote cancer prevention and advocate on behalf of cancer patients.

(4) "Cancer research" means advanced and applied research and development relating to the causes, prevention, and diagnosis of cancer and care of cancer patients including the development of tests, genetic analysis, medications, processes, services, and technologies to optimize cancer therapies and their manufacture and commercialization and includes the costs of recruiting scientists and establishing and equipping research facilities.

(5) "Commercial entity" means a for-profit entity located in the state that develops, manufactures, or sells goods or services relating to cancer prevention or care.

(6) "Committee" means an independent expert scientific review and advisory committee established under RCW 43.348.050.

(7) "Contribution agreement" means any agreement authorized under this chapter in which a private entity or a public entity other than the state agrees to provide to the endowment contributions for the purpose of cancer research, prevention, or care.

(8) "Costs" means the costs and expenses associated with the conduct of research, prevention, and care including, but not limited to, the cost of recruiting and compensating personnel, securing and financing facilities and equipment, and conducting clinical trials.

(9) "Department" means the department of commerce.

(10) "Endowment" means the Andy Hill cancer research endowment.

(11) "Fund" means the Andy Hill cancer research fund created in RCW 43.348.060(1)(b).

(12) "Health care delivery system" means hospitals and clinics providing care to patients in the state.

(13) "Life sciences research" means advanced and applied research and development intended to improve human health, including scientific study of the developing brain and human learning and development, and other areas of scientific research and development vital to the state's economy.

(14) "Prevention" means measures to prevent the development and progression of cancer, including education, vaccinations, and screening processes and technologies, and to reduce the risk of cancer.

(15) "Program" means the Andy Hill cancer research endowment program created in RCW 43.348.040.

(16) "Program administrator" means a private nonprofit corporation qualified as a tax-exempt entity under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code, with expertise in conducting or managing research granting activities, funds, or organizations. [2018 c 4 § 1; 2015 3rd sp.s. c 34 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

43.348.020 Andy Hill cancer research endowment.

(1) The Andy Hill cancer research endowment is created. The (2022 Ed.)

powers of the endowment are vested in and must be exercised by a board. The board consists of thirteen members appointed by the governor:

(a) Two members must be appointed from nominations submitted by the presidents of the University of Washington and Washington State University;

(b) Two members must be appointed from nominations submitted by the Fred Hutchinson cancer research center, Seattle cancer care alliance, and the Seattle children's research institute;

(c) Two members must be appointed from nominations submitted by patient advocacy organizations;

(d) Two members must be appointed from nominations submitted by representatives of businesses or industries engaged in the commercialization of life sciences research or cancer research;

(e) One member must be appointed from a list of at least three nominated by the speaker of the house of representatives;

(f) One member must be appointed from a list of at least three nominated by the president of the senate;

(g) One member must be appointed from nominations submitted by entities or systems that provide health care delivery services;

(h) One member must be appointed from nominations provided by private sector donors to the fund. However, the governor may reject all nominations and request a new list from which the governor must select the member; and

(i) The remaining member must be a member of the public.

(2) In soliciting nominations and appointing members, the governor must seek to identify individuals from throughout the state having relevant knowledge, experience, and expertise with regard to (a) cancer research, prevention, and care; (b) health care consumer issues; (c) government finance and budget; and (d) the commercialization of life sciences or cancer research. In soliciting nominations and appointing members, the governor must seek individuals who will contribute to the geographic diversity of the board, with the goal that at least five board members be from counties with a population less than one million persons. Appointments must be made on or before July 1, 2016.

(3) The term of a member is four years from the date of their appointment except the initial term of the members in subsection (1)(d) through (i) of this section must be two years to create a staggered appointment process. A member may be appointed to not more than two full consecutive terms. A member appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The members may not be compensated but may be reimbursed, solely from the fund, for expenses incurred in the discharge of their duties under this chapter.

(4) Seven members of the board constitute a quorum.

(5) The members must elect a chair, treasurer, and secretary annually, and other officers as the members determine necessary, and may adopt bylaws or rules for their own government.

(6) Meetings of the board must be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the members so requests. Meetings of the board may be held at any location

within or out of the state, and members may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200. [2018 c 4 § 2; 2015 3rd sp.s. c 34 § 3.]

43.348.030 Endowment—General powers. The endowment has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the endowment may:

- (1) Sue and be sued in its own name;
- (2) Make and execute agreements, contracts, and other instruments, with any public or private person or entity, including commercial entities, in accordance with this chapter;
- (3) Employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter;
- (4) Exercise any other power reasonably required to implement the purposes of this chapter; and
- (5) Delegate any of its powers and duties if consistent with the purposes of this chapter. [2018 c 4 § 3; 2015 3rd sp.s. c 34 § 4.]

43.348.040 Andy Hill cancer research endowment program. (1) The Andy Hill cancer research endowment program is created. The purpose of the program is to make grants to public and private entities, including commercial entities, to fund or reimburse the entities pursuant to agreement for the promotion of cancer research to be conducted in the state. The endowment is to oversee and guide the program, including the solicitation, selection, and award of grants.

(2) The board must develop a plan for the allocation of projected amounts in the fund, which it must update annually, following at least one annual public hearing. The plan must provide for appropriate funding continuity and take into account the projected speed at which revenues will be available and amounts that can be spent during the plan period.

(3) The endowment must solicit requests for grant funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research or program; (b) its potential to improve health outcomes of persons with cancer, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular cancer or cancer-related condition or disease; (c) its potential for leveraging additional funding; (d) its potential to provide additional health care benefits or benefit other human diseases or conditions; (e) its potential to stimulate life science, health care, and biomedical employment in the state; (f) the geographic diversity of the grantees within Washington; (g) evidence of potential royalty, sales, or licensing revenue, or other commercialization-related revenue and contractual means to recapture such income for purposes of this chapter; and (h) evidence of public and private collaboration.

(4) The endowment may not award a grant for a proposal that was not recommended by an independent expert scientific review and advisory committee under RCW 43.348.050.

(5) The endowment must issue an annual report to the public that sets forth its activities with respect to the fund, including grants awarded, grant-funded work in progress, research accomplishments, prevention, and care activities, and future program directions with respect to cancer research, prevention, and care. Each annual report regarding activities of the program and fund must include, but not be limited to, the following: The number and dollar amounts of grants; the grantees for the prior year; the endowment's administrative expenses; an assessment of the availability of funding for cancer research, prevention, and care from sources other than the endowment; a summary of research, prevention, and care-related findings, including promising new areas for investment; and a report on the benefits to Washington of its programs to date.

(6) The endowment's first annual report must include a proposed operating plan for the design, implementation, and administration of an endowment program supporting the purposes of the endowment and program.

(7) The endowment must adopt policies to ensure that all potential conflicts have been disclosed and that all conflicts have been eliminated or mitigated.

(8) The endowment must establish standards to ensure that recipients of grants for cancer research, prevention, or care purchase goods and services from Washington suppliers to the extent reasonably possible. [2018 c 4 § 4; 2015 3rd sp.s. c 34 § 5.]

43.348.050 Independent expert scientific review and advisory committee—Created—Grant proposal evaluations and recommendations. (1) In addition to any advisory boards the endowment determines to establish, the endowment must establish one or more independent expert scientific review and advisory committees for the purposes of evaluating grant proposals for cancer research and recommending grants to be made from the Andy Hill cancer research fund; advising the endowment during the development and review of its strategic plans for cancer research; and advising the endowment on scientific and other matters in furtherance of the cancer research purposes of this chapter.

(2) Each independent expert scientific review and advisory committee must consist of individuals with nationally recognized expertise in the scientific, clinical, ethical, commercial, and regulatory aspects of cancer research, prevention, and care. The board must appoint the members of the committee. Preliminary review of grant proposals may be made by a panel of such committee or an independent contractor chosen by the board upon recommendation of the committee, but all recommendations for grants to be made from the fund may be made only upon majority vote of the committee. [2018 c 4 § 5; 2015 3rd sp.s. c 34 § 6.]

43.348.060 Program administrator—Andy Hill cancer research fund—Independent auditor. (1) The program administrator must provide services to the board and has the following duties and responsibilities:

(a) Jointly with the board, solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities, including commercial entities, in order to use those moneys to fund grants awarded by the endowment;

(b) Establish an Andy Hill cancer research fund. The fund must be a separate private account outside the state treasury into which grants and contributions received from public and private sources as well as state matching funds must be deposited, and from which funds for grants awarded by the endowment must be disbursed. Once moneys in the Andy Hill cancer research endowment fund match transfer account are subject to an agreement under RCW 43.348.080(6) and are deposited in the fund under this section, the moneys in the fund are not considered state money, common cash, or revenue to the state;

(c) Manage the fund, its obligations, and investments as to achieve the maximum possible rate of return on investment in the fund;

(d) Establish policies and procedures to facilitate the orderly process of grant application, review, selection, and notification; and

(e) Distribute funds to selected entities through grant agreements. Grant agreements must set forth the terms and conditions of the grant and must include, but not be limited to: (i) Deliverables to be provided by the recipient pursuant to the grant; (ii) the circumstances under which the grant amount would be required to be repaid or the circumstances under which royalty, sales, or licensing revenue, or other commercialization-related revenue would be required to be shared; and (iii) indemnification, dispute resolution, and any other terms and conditions as are customary for grant agreements or are deemed reasonable by the board. The program administrator may negotiate with any grantee the costs associated with performing scientific activities funded by grants.

(2) Periodically, but not less often than every three years, the endowment and the department must conduct a request for proposals and retain the services of an independent auditor with experience in performance auditing of research granting entities similar to the endowment. The independent auditor must review the endowment's strategic plan, program, and program administrator and publish a report assessing their performance and providing recommendations for improvement. The endowment must hold at least one public hearing at which the results of each audit are presented and discussed. [2018 c 4 § 6; 2015 3rd sp.s. c 34 § 7.]

43.348.070 Charitable contributions. The program administrator may create additional legal entities and take such action as may be necessary or advisable to enable the fund to accept charitable contributions. In addition, the program administrator may provide technical assistance, information, and training to private employers and other potential donors to establish programs that facilitate charitable contributions to the fund including tobacco use premium surcharge programs. [2018 c 4 § 7; 2015 3rd sp.s. c 34 § 8.]

43.348.080 Andy Hill cancer research endowment fund match transfer account. (1) The Andy Hill cancer research endowment fund match transfer account is created in the custody of the state treasury to be used solely and exclusively for the program created in RCW 43.348.040. Moneys in the account may be spent only after appropriation. The purpose of the account is to provide matching funds for the fund and administrative costs. Expenditures to fund or

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reimburse the program administrator are not subject to the requirements of subsection (4) of this section.

(2) The legislature must appropriate a state match, up to a maximum of ten million dollars annually, beginning July 1, 2016, and each July 1st following the end of the fiscal year from tax collections and penalties generated from enforcement of state taxes on cigarettes and other tobacco products by the state liquor and cannabis board or other federal, state or local law or tax enforcement agency, as determined by the department of revenue. Tax collections include any cigarette tax, other tobacco product tax, and retail sales and use tax. Any amounts deposited into this account from the tax imposed under RCW 82.25.010 in excess of the cap provided in this subsection must be deposited into the foundational public health services account created in RCW 82.25.015.

(3) Revenues to the account must consist of deposits into the account, taxes imposed on vapor products under RCW 82.25.010, legislative appropriations, and any gifts, grants, or donations received by the department for this purpose.

(4) Each fiscal biennium, the legislature must appropriate to the department of commerce such amounts as estimated to be the balance of the account to provide state matching funds.

(5) Expenditures, in the form of matching funds, from the account may be made only upon receipt of proof from the program administrator of nonstate or private contributions to the fund for the program. Expenditures, in the form of matching funds, may not exceed the total amount of nonstate or private contributions.

(6) The department must enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.

(7) Moneys expended into the account in fiscal year 2023 pursuant to section 706, chapter 297, Laws of 2022 are not subject to the requirements of subsections (5) and (6) of this section. [2022 c 297 § 961; 2019 c 445 § 403; 2018 c 4 § 8; 2015 3rd sp.s. c 34 § 9.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Conflict with federal requirements—Effective date—2019 c 445: See RCW 82.25.900 and 82.25.901.

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

Chapter 43.360 RCW

WASHINGTON MAIN STREET PROGRAM

Sections

43.360.005	Findings—Intent.
43.360.010	Definitions.
43.360.020	Program created—Duties.
43.360.030	Designation of specific programs—Criteria.
43.360.050	Washington main street trust fund account.

Tax incentives for Washington main street program: Chapter 82.73 RCW.

43.360.005 Findings—Intent. (1) The legislature finds:

(a) The continued economic vitality of downtown and neighborhood commercial districts in our state's cities is essential to community preservation, social cohesion, and economic growth;

(b) In recent years there has been a deterioration of downtown and neighborhood commercial districts in both

rural and urban communities due to a shifting population base, changes in the marketplace, and greater competition from suburban shopping malls, discount centers, and business transacted through the internet;

(c) This decline has eroded the ability of businesses and property owners to renovate and enhance their commercial and residential properties; and

(d) Business owners in these districts need to maintain their local economies in order to provide goods and services to adjacent residents, to provide employment opportunities, to avoid disinvestment and economic dislocations, and to develop and sustain downtown and neighborhood commercial district revitalization programs to address these problems.

(2) It is the intent of the legislature to establish a program to:

(a) Work in partnership with these organizations;

(b) Provide technical assistance and training to local governments, business organizations, downtown and neighborhood commercial district organizations, and business and property owners to accomplish community and economic revitalization and development of business districts; and

(c) Certify a downtown or neighborhood commercial district organization's use of available tax incentives. [2005 c 514 § 901.]

Additional notes found at www.leg.wa.gov

43.360.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Area" means a geographic area within a local government that is described by a closed perimeter boundary.

(2) "Department" means the department of archaeology and historic preservation.

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

(4) "Local government" means a city, code city, or town.

(5) "Qualified levels of participation" means a local downtown or neighborhood commercial district revitalization program that has been designated by the department. [2010 c 30 § 3; 2009 c 565 § 44; 2005 c 514 § 908.]

Finding—2010 c 30: "Many of Washington's communities use the main street program to address issues facing their older traditional commercial districts. The main street program is a preservation-based economic development program that assists communities in implementing a locally driven downtown revitalization effort. However, the main street program is broader than merely preserving a community's downtown, it is the revitalization of that community's downtown. Downtown revitalization creates jobs and puts people to work. Downtown revitalization attracts new businesses and offers local investment opportunities. New and expanding downtown businesses generate increased sales tax and attract export dollars to the community. Therefore, the legislature finds that the movement of the main street program from the department of commerce to the department of archaeology and historic preservation is designed to provide for both the preservation of a community's downtown and economic development for that community." [2010 c 30 § 1.]

Additional notes found at www.leg.wa.gov

43.360.020 Program created—Duties. The Washington main street program is created within the department. In order to implement the Washington main street program, the department shall:

(1) Provide technical assistance to businesses, property owners, organizations, and local governments undertaking a

comprehensive downtown or neighborhood commercial district revitalization initiative and management strategy. Technical assistance may include, but is not limited to, initial site evaluations and assessments, training for local programs, training for local program staff, site visits and assessments by technical specialists, local program design assistance and evaluation, and continued local program on-site assistance;

(2) To the extent funds are made available, provide financial assistance to local governments or local organizations to assist in initial downtown or neighborhood commercial district revitalization program start-up costs, specialized training, specific project feasibility studies, market studies, and design assistance;

(3) Develop objective criteria for selecting recipients of assistance under subsections (1) and (2) of this section, which shall include priority for downtown or neighborhood commercial district revitalization programs located in a rural county as defined in *RCW 43.160.020(12), and provide for designation of local programs under RCW 43.360.030;

(4) Operate the Washington main street program in accordance with the plan developed by the department, in consultation with the Washington main street advisory committee created under **RCW 43.360.040; and

(5) Consider other factors the department deems necessary for the implementation of this chapter. [2005 c 514 § 909.]

Reviser's note: *(1) RCW 43.160.020 was amended by 2009 c 565 § 35, changing subsection (12) to subsection (5).

** (2) RCW 43.360.040 was repealed by 2010 1st sp.s. c 7 § 68.

Additional notes found at www.leg.wa.gov

43.360.030 Designation of specific programs—Criteria. (1) The department shall adopt criteria for the designation of local downtown or neighborhood commercial district revitalization programs and official local main street programs. In establishing the criteria, the department shall consider:

(a) The degree of interest and commitment to comprehensive downtown or neighborhood commercial district revitalization and, where applicable, historic preservation by both the public and private sectors;

(b) The evidence of potential private sector investment in the downtown or neighborhood commercial district;

(c) Where applicable, a downtown or neighborhood commercial district with sufficient historic fabric to become a foundation for an enhanced community image;

(d) The capacity of the organization to undertake a comprehensive program and the financial commitment to implement a long-term downtown or neighborhood commercial district revitalization program that includes a commitment to employ a professional program manager and maintain a sufficient operating budget;

(e) The department's existing downtown revitalization program's tier system;

(f) The national main street center's criteria for designating official main street cities; and

(g) Other factors the department deems necessary for the designation of a local program.

(2) The department shall designate local downtown or neighborhood commercial district revitalization programs and official local main street programs. The programs shall

be limited to three categories of designation, one of which shall be the main street level.

(3) RCW 43.360.020 does not apply to any local downtown or neighborhood commercial district revitalization program unless the boundaries of the program have been identified and approved by the department. The boundaries of a local downtown or neighborhood commercial district revitalization program are typically defined using the pedestrian core of a traditional commercial district.

(4) The department may not designate a local downtown or neighborhood commercial district revitalization program or official local main street program if the program is undertaken by a local government with a population of one hundred ninety thousand persons or more at the time of designation. [2022 c 50 § 1; 2005 c 514 § 910.]

Additional notes found at www.leg.wa.gov

43.360.050 Washington main street trust fund account. The Washington main street trust fund account is created in the state treasury. All receipts from private contributions, federal funds, legislative appropriations, and fees for services, if levied, must be deposited into the account. Expenditures from the account may be used only for the operation of the Washington main street program. [2005 c 514 § 912.]

Additional notes found at www.leg.wa.gov

Chapter 43.362 RCW REGIONAL TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

Sections

43.362.005	Findings.
43.362.010	Definitions.
43.362.020	Regional transfer of development rights program.
43.362.030	Program established in central Puget Sound.
43.362.040	Designation of sending and receiving areas—Inclusion of certain lands in programs for agricultural or forestland conservation.
43.362.050	Interlocal agreement for transfers of development rights—Rules.
43.362.060	Participation in regional transfer of development rights program—Requirements—Incentives for developers.
43.362.070	Quantitative and qualitative performance measures—Reporting—Posting on website.

43.362.005 Findings. (1) The legislature finds that current concern over the rapid and increasing loss of rural, agricultural, and forested land has led to the exploration of creative approaches to preserving these important lands, and that the creation of a regional transfer of development rights marketplace will assist in conserving these lands.

(2) A transfer of development rights is a market-based exchange mechanism that encourages the voluntary transfer of development rights from sending areas with lower population densities to receiving areas with higher population densities. When development rights are transferred through a transfer of development rights exchange, permanent deed restrictions are placed on the sending area properties to ensure that the land will be used only for approved activities, activities that may include farming, forest management, conservation, or passive recreation. Additionally, in a transfer of development rights exchange, the costs of purchasing the recorded development restrictions are borne by the develop-

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ers who receive the transferred right in the form of a building credit or bonus.

(3) The legislature further finds that a successful transfer of development rights program must consider housing affordable to all economic segments of the population, and economic development programs and policies in designated receiving areas. Counties, cities, and towns that decide to participate in the regional transfer of development rights program for central Puget Sound are encouraged to adopt comprehensive plan policies and development regulations to implement the program that do not compete or conflict with comprehensive plan policies and development regulations that require or encourage affordable housing. Participating cities and towns are also encouraged to use the development of receiving areas to maximize opportunities for economic development that supports the creation or retention of jobs.

(4) Participation in a regional transfer of development rights program by counties, cities, and towns should be as simple as possible.

(5) Accordingly, the legislature has determined that it is good public policy to build upon existing transfer of development rights programs, pilot projects, and private initiatives that foster effective use of transferred development rights through the creation of a market-based program that focuses on the central Puget Sound region. A regional transfer of development rights program in the central Puget Sound should be voluntary, incentive-driven, and separate, but compatible with existing local transfer of development rights programs. [2009 c 474 § 1; 2007 c 482 § 1.]

43.362.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "By-right permitting" means that project applications for permits that use transferable development rights would be subject to administrative review. Administrative review allows a local planning official to approve a project without noticed public hearings.

(2) "Department" means the department of commerce.

(3) "Nongovernmental entities" includes nonprofit or membership organizations with experience or expertise in transferring development rights.

(4) "Receiving area ratio" means the number or character of development rights that are assigned to a development right for use in a receiving area. Development rights in a receiving area may be used at the discretion of the receiving area jurisdiction, including but not limited to additional residential density, additional building height, additional commercial floor area, or to meet regulatory requirements.

(5) "Receiving areas" are lands within and designated by a city or town in which transferable development rights from the regional program established by this chapter may be used.

(6) "Regional transfer of development rights program" or "regional program" means the regional transfer of development rights program established by RCW 43.362.030 in central Puget Sound, including King, Pierce, Kitsap, and Snohomish counties and the cities and towns within these counties.

(7) "Sending area" includes those lands that meet conservation criteria as described in RCW 43.362.040.

(8) "Sending area ratio" means the number of development rights that a sending area landowner can sell per acre.

(9) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to a receiving area for the purpose of increasing development density or intensity in the receiving area.

(10) "Transferable development right" means a right to develop one or more residential units in a sending area that can be sold and transferred for use consistent with a receiving ratio adopted for development in a designated receiving area consistent with the regional program. [2009 c 565 § 45; 2009 c 474 § 2; 2007 c 482 § 2.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2009 c 474 § 2 and by 2009 c 565 § 45, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

43.362.020 Regional transfer of development rights program. Subject to the availability of amounts appropriated for this specific purpose, the department shall fund a process to develop a regional transfer of development rights program that comports with chapter 36.70A RCW that:

(1) Encourages King, Kitsap, Pierce, and Snohomish counties, and the cities within these counties, to participate in the development and implementation of regional frameworks and mechanisms that make transfer of development rights programs viable and successful. The department shall encourage and embrace the efforts in any of these counties or cities to develop local transfer of development rights programs. In fulfilling the requirements of this chapter, the department shall work with the Puget Sound regional council and its growth management policy board to develop a process that satisfies the requirements of this chapter. In the development of a process to create a regional transfer of development rights program, the Puget Sound regional council and its growth management policy board shall develop policies to discourage, or prohibit if necessary, the transfer of development rights from a sending area that would negatively impact the future economic viability of the sending area. The department shall also work with an advisory committee to develop a regional transfer of development rights marketplace that includes, but is not limited to, supporting strategies for financing infrastructure and conservation. The department shall establish an advisory committee of nine stakeholders with representatives of the following interests:

(a) Two qualified nongovernmental organizations with expertise in the transfer of development rights. At least one organization must have a statewide expertise in growth management planning and in the transfer of development rights and at least one organization must have a local perspective on market-based conservation strategies and transfer of development rights;

(b) Two representatives from real estate and development;

(c) One representative with a county government perspective;

(d) Two representatives from cities of different sizes and geographic areas within the four-county region; and

(e) Two representatives of the agricultural industry; and

(2) Allows the department to utilize recommendations of the interested local governments, nongovernmental entities, and the Puget Sound regional council to develop recommendations and strategies for a regional transfer of development rights marketplace with supporting strategies for financing infrastructure and conservation that represents the consensus of the governmental and nongovernmental parties engaged in the process. However, if agreement between the parties cannot be reached, the department shall make recommendations to the legislature that seek to balance the needs and interests of the interested governmental and nongovernmental parties. The department may contract for expertise to accomplish any of the following tasks. Recommendations developed under this subsection must:

(a) Identify opportunities for cities, counties, and the state to achieve significant benefits through using transfer of development rights programs and the value in modifying criteria by which capital budget funds are allocated, including but not limited to, existing state grant programs to provide incentives for local governments to implement transfer of development rights programs;

(b) Address challenges to the creation of an efficient and transparent transfer of development rights market, including the creation of a transfer of development rights bank, brokerage, or direct buyer-seller exchange;

(c) Address issues of certainty to buyers and sellers of development rights that address long-term environmental benefits and perceived inequities in land values and permitting processes;

(d) Address the means for assuring that appropriate values are recognized and updated, as well as specifically addressing the need to maintain the quality of life in receiving neighborhoods and the protection of environmental values over time;

(e) Identify opportunities and challenges that, if resolved, would result in cities throughout the Puget Sound region participating in a transfer of development rights market;

(f) Compare the uses of a regional transfer of development rights program to other existing land conservation strategies to protect rural and resource lands and implement the growth management act; and

(g) Identify appropriate sending areas so as to protect future growth and economic development needs of the sending areas. [2007 c 482 § 3.]

43.362.030 Program established in central Puget Sound. (1) Subject to the availability of funds appropriated for this specific purpose or another source of funding made available for this specific purpose, the department shall establish a regional transfer of development rights program in central Puget Sound, including King, Kitsap, Snohomish, and Pierce counties and the cities and towns within these counties. The program must be guided by the Puget Sound regional council's multicounty planning policies adopted under RCW 36.70A.210(7).

(2) The purpose of the program is to foster voluntary county, city, and town participation in the program so that interjurisdictional transfers occur between the counties, cities, and towns, including transfers from counties to cities and towns in other counties. Private transactions between buyers

and sellers of transferable development rights are allowed and encouraged under this program. In fulfilling the requirements of this chapter, the department shall work with the Puget Sound regional council to implement a regional program.

(3) The department shall encourage participation by the cities, towns, and counties in the regional program. The regional program shall not be implemented in a manner that negatively impacts existing local programs. The department shall encourage and work to enhance the efforts in any of these counties, cities, or towns to develop local transfer of development rights programs or enhance existing programs.

(4) Subject to the availability of funds appropriated for this specific purpose or another source of funding made available for this specific purpose, the department shall do the following to implement a regional transfer of development rights program in central Puget Sound:

(a) Serve as the central coordinator for state government in the implementation of RCW 43.362.030 through 43.362.070.

(b) Offer technical assistance to cities, towns, and counties planning for participation in the regional transfer of development rights program. The department's technical assistance shall:

(i) Include written guidance for local development and implementation of the regional transfer of development rights program;

(ii) Include guidance for and encourage permitting or environmental review incentives for developers to participate. Activities may include, but are not limited to, provision for by-right permitting, substantial environmental review of a subarea plan for the receiving area that includes the use of transferable development rights, adoption of a categorical exemption for infill under RCW 43.21C.229 for a receiving area, or adoption of a planned action under RCW 43.21C.240;

(iii) Provide guidance to counties, cities, and towns to negotiate receiving area ratios and foster private transactions;

(iv) Provide guidance and encourage planning for receiving areas that do not compete or conflict with comprehensive plan policies and development regulations that require or encourage affordable housing; and

(v) Provide guidance and encourage planning for receiving areas that maximizes opportunities for economic development through the creation or retention of jobs.

(c) Work with counties, cities, and towns to inform elected officials, planning commissions, and the public regarding the regional transfer of development rights program. The information provided by the department shall discuss the importance of preserving farmland and farming, and forestland and forestry, to cities and towns and the local economy.

(d) Based on information provided by the counties, cities, and towns, post on a website information regarding transfer of development rights transactions and a list of interested buyers and sellers of transferable development rights.

(e) Coordinate with and provide resources to state and local agencies and stakeholders to provide public outreach. [2009 c 474 § 3.]

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43.362.040 Designation of sending and receiving areas—Inclusion of certain lands in programs for agricultural or forestland conservation. (1) Counties shall use the following criteria to guide the designation of sending areas for participation in the regional transfer of development rights program:

(a) Land designated as agricultural or forestland of long-term commercial significance;

(b) Land designated rural that is being farmed or managed for forestry;

(c) Land whose conservation meets other state and regionally adopted priorities; and

(d) Land that is in current use as a manufactured/mobile home park as defined in chapter 59.20 RCW.

Nothing in these criteria limits a county's authority to designate additional lands as a sending area for conservation under a local county transfer of development rights program.

(2) Upon purchase of a transferable development right from land designated rural that is being farmed or managed for forestry, a county must include the land from which the right was purchased in any programs it administers for conservation of agricultural land or forestland.

(3) The designation of receiving areas is limited to incorporated cities or towns. Prior to designating a receiving area, a city or town should have adequate infrastructure planned and funding identified for development in the receiving area at densities or intensities consistent with what can be achieved under the local transfer of development rights program. Nothing in this subsection limits a city's, town's, or county's authority to designate additional lands for a receiving area under a local intrajurisdictional transfer of development rights program that is not part of the regional program.

(4) Cities and towns participating in the regional transfer of development rights program shall have discretion to determine which sending areas they receive development rights from to be used in their designated receiving areas.

(5) Designation of sending and receiving areas should include a process for public outreach consistent with the public participation requirements in chapter 36.70A RCW. [2009 c 474 § 4.]

43.362.050 Interlocal agreement for transfers of development rights—Rules. (1) To facilitate participation, the department shall develop and adopt by rule terms and conditions of an interlocal agreement for transfers of development rights between counties, cities, and towns. Counties, cities, and towns participating in the regional program have the option of adopting the rule by reference to transfer development rights across jurisdictional boundaries as an alternative to entering into an interlocal agreement under chapter 39.34 RCW.

(2) This section and the rules adopted under this section shall be deemed to provide an alternative method for the implementation of a regional transfer of development rights program, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in municipalities.

(3) Nothing in this section prohibits a county, city, or town from entering into an interlocal agreement under chapter 39.34 RCW to transfer development rights under the regional program. [2009 c 474 § 5.]

43.362.060 Participation in regional transfer of development rights program—Requirements—Incentives for developers. (1) Counties, cities, and towns that choose to participate in the regional transfer of development rights program must:

(a) Enter into an interlocal agreement or adopt a resolution adopting by reference the provisions in the department rule authorized in RCW 43.362.050; and

(b) Adopt transfer of development rights policies or implement development regulations that:

(i) Comply with chapter 36.70A RCW;

(ii) Designate sending or receiving areas consistent with RCW 43.362.030 through 43.362.070; and

(iii) Adopt a sending or receiving area ratio in cooperation with the sending or receiving jurisdiction.

(2) Cities and towns that choose to participate in the regional transfer of development rights program are encouraged to provide permitting or environmental review incentives for developers to participate. Such incentives may include, but are not limited to, provision for by-right permitting, substantial environmental review of a subarea plan for the receiving area that includes the use of transferable development rights, adoption of a categorical exemption for infill under RCW 43.21C.229 for a receiving area, or adoption of a planned action under RCW 43.21C.240. [2009 c 474 § 6.]

43.362.070 Quantitative and qualitative performance measures—Reporting—Posting on website. The department will develop quantitative and qualitative performance measures for monitoring the regional transfer of development rights program. The performance measures may address conservation of land and creation of compact communities, as well as other measures identified by the department. The department may require cities, towns, and counties to report on these performance measures biannually. The department shall compile any performance measure information that has been reported by the counties, cities, and towns and post it on a website. [2009 c 474 § 7.]

Chapter 43.365 RCW

MOTION PICTURE COMPETITIVENESS PROGRAM

Sections

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43.365.005 Findings—Intent. The legislature recognizes the motion picture industry in Washington as a valuable commodity contributing greatly to the economic vitality of the state and the cultural integrity of our communities. The legislature further recognizes the production of in-state motion pictures, television programs, and television commercials creates a marked increase in tourism, family-wage jobs, and the sale of local goods and services generating revenue

for the state. Furthermore, with captive national and international audiences, the world is introduced to the state's pristine scenic venues and reminded that the Pacific Northwest is a great place to live and raise a family. The legislature also recognizes the inherent educational value of promoting arts and culture as well as the benefits of training young motion picture professionals who will build a fruitful industry for years to come.

The legislature finds in recent years that the state has realized a drastic decline in motion picture production that precludes economic expansion and threatens the state's reputation as a production destination. With the emergence of tax incentives in other states nationwide, in-state producers are taking their projects to more competitive economic climates, such as Oregon and Vancouver, British Columbia, where compelling tax incentive packages and subsidies are already in effect.

The legislature also finds that in recent years increasingly workers in Washington state are without health insurance coverage and retirement income protections, causing hardships on workers and their families and higher costs to the state.

The legislature also recognizes that there are significant barriers to entry for those from marginalized communities to enter the motion picture workforce. This results in lost opportunity for people to tell stories in film that reflect a breadth of diversity in experience across race, gender, ability, sexual orientation, and place of origin.

The legislature also finds that more investment in the film industry will increase revenue with Washington state businesses and create family-wage jobs that pay health and retirement benefits for Washington workers. Moreover, targeted investments in rural and marginalized communities will create opportunities to build an equitable workforce and film industry.

Therefore, it is the intent of the legislature to recognize both national and international competition in the motion picture production marketplace. The legislature is committed to leveling the competitive playing field and promoting an equitable film industry and is interested in a partnership with the private sector to regain Washington's place as a premier destination to make motion pictures, television, and television commercials. While at the same time the legislature is committed to ensuring that workers in the motion picture and television industry are covered under health insurance and retirement income plans and that motion picture production sets and stories reflect the diversity of Washington residents. [2022 c 270 § 1; 2006 c 247 § 1.]

43.365.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approved motion picture competitiveness program" and "program" mean a nonprofit organization under the internal revenue code, section 501(c)(6), with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production and associated creative industries and assisting and providing services for attracting the film industry and associated creative industries, by recommending and

awarding financial assistance for costs associated with motion pictures in the state of Washington.

(2) "Board of directors" and "board" mean the board of directors established in RCW 43.365.030.

(3) "Contribution" means cash contributions.

(4) "Costs" means actual expenses of production and postproduction expended in Washington state for the production of motion pictures, including but not limited to payments made for salaries, wages, and health insurance and retirement benefits, the rental costs of machinery and equipment and the purchase of services, food, property, lodging, and permits for work conducted in Washington state.

(5) "Department" means the department of commerce.

(6) "Funding assistance" means cash expenditures from an approved motion picture competitiveness program.

(7) "Motion picture" means a recorded audiovisual production intended for distribution to the public for exhibition in public and/or private settings by means of any and all delivery systems and/or delivery platforms now or hereafter known, including without limitation, screenings in motion picture theaters, broadcasts and cablecast transmissions for viewing on televisions, computer screens, and other audiovisual receivers, viewings on screens by means of digital video disc (DVD) players, video on demand (VOD) services, and digital video recording (DVR) services, direct internet transmission, and viewing on digital computer-based systems which respond to the users' actions (interactive media).

(8) "Person" has the same meaning as provided in RCW 82.04.030.

(9) "Rural community" has the same meaning as "rural county" in RCW 82.14.370. [2022 c 270 § 2; 2017 3rd sp.s. c 37 § 1103; 2012 c 189 § 1. Prior: 2009 c 565 § 46; 2006 c 247 § 2.]

43.365.020 Program criteria—Permissible expenditures—Maximum funding assistance—Funding assistance approval—Rules—Reports. (1) The department must adopt criteria for the approved motion picture competitiveness program with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production. Rules adopted by the department shall allow the program, within the established criteria, to provide funding assistance only when it captures economic opportunities for Washington's communities and businesses and shall only be provided under a contractual arrangement with a private entity. In establishing the criteria, the department shall consider:

(a) The additional income and tax revenue to be retained in the state for general purposes;

(b) The creation and retention of family-wage jobs which provide health insurance and payments into a retirement plan;

(c) The impact of motion picture projects to maximize in-state labor and the use of in-state film production and film postproduction companies;

(d) The impact upon the local economies and the state economy as a whole, including multiplier effects;

(e) The intangible impact on the state and local communities that comes with motion picture projects;

(f) The regional, national, and international competitiveness of the motion picture filming industry;

(g) The revitalization of the state as a premier venue for motion picture production and national television commercial campaigns;

(h) Partnerships with the private sector to bolster film production in the state and serve as an educational and cultural purpose for its citizens;

(i) The vitality of the state's motion picture industry as a necessary and critical factor in promoting the state as a premier tourist and cultural destination;

(j) Giving preference to additional seasons of television series that have previously qualified and to motion picture productions that tell stories of marginalized communities; and

(k) Other factors the department may deem appropriate for the implementation of this chapter.

(2) The board of directors shall create and administer an account for carrying out the purposes of subsection (4) of this section.

(3) The board's goal must be to commit at least 20 percent of funding assistance to motion picture productions located or filmed in rural communities and 20 percent of funding assistance to motion picture productions that tell stories of marginalized communities.

(4) Money received by the approved motion picture competitiveness program shall be used only for:

(a) Health insurance and payments into a retirement plan, and other costs associated with film production;

(b) Staff and related expenses to maintain the program's proper administration and operation;

(c) Supporting the growth and development of the Washington state film industry through career connected learning, workforce development, and business development with a focus on better supporting people from marginalized or rural communities; and

(d) Developing resources to facilitate filming in rural communities including, but not limited to, economic development grants for filming, training for film liaisons, information about film permitting processes, and grants to support the expansion of location database collateral.

(5) Except as provided otherwise in subsections (8) and (9) of this section, maximum funding assistance from the approved motion picture competitiveness program is limited to an amount up to thirty percent of the total actual investment in the state of at least:

(a) Five hundred thousand dollars for a single motion picture produced in Washington state; or

(b) One hundred fifty thousand dollars for a television commercial associated with a national or regional advertisement campaign produced in Washington state.

(6) Except as provided otherwise in subsections (8) and (9) of this section, maximum funding assistance from the approved motion picture competitiveness program is limited to an amount up to thirty-five percent of the total actual investment of at least three hundred thousand dollars per episode produced in Washington state. A minimum of six episodes of a series must be produced to qualify under this subsection. A maximum of up to thirty percent of the total actual investment from the approved motion picture competitiveness program may be awarded to an episodic series of less than six episodes.

(7) With respect to costs associated with nonstate labor for motion pictures and episodic services, funding assistance from the approved motion picture competitiveness program is limited to an amount up to fifteen percent of the total actual investment used for costs associated with nonstate labor. To qualify under this subsection, the production must have a labor force of at least eighty-five percent of Washington residents. The board may establish additional criteria to maximize the use of in-state labor.

(8)(a) The approved motion picture competitiveness program may allocate an annual aggregate of no more than ten percent of the qualifying contributions by the program under RCW 82.04.4489 to provide funding support for filmmakers who are Washington residents, new forms of production, and emerging technologies.

(i) Up to thirty percent of the actual investment for a motion picture with an actual investment lower than that of motion pictures under subsection (5)(a) of this section; or

(ii) Up to thirty percent of the actual investment of an interactive motion picture intended for multiplatform exhibition and distribution.

(b) Subsections (5) and (6) of this section do not apply to this subsection.

(9)(a) In addition to the maximum funding assistance established in subsections (5) and (6) of this section, up to a 10 percent enhancement award on a motion picture production's state investment must be given for motion pictures: (i) Located or filmed in a rural community; or (ii) that tell stories of marginalized communities.

(b) Total actual investment requirements established in subsections (5) and (6) of this section apply to this subsection (9).

(10)(a) Funding assistance must include up to \$3,000,000 for small motion picture productions produced in Washington state, subject to subsection (11) of this section, that are creatively driven by Washington residents. To qualify, the small motion picture production must have at least two Washington residents in any combination of the following positions: Writer, director, producer, or lead actor. An entity seeking funding assistance for a small motion picture production must demonstrate that the amount of the total actual investment for the production is less than \$1,000,000.

(b) Maximum funding assistance and total actual investment requirements, established in subsections (5), (6), (7), (8), and (9) of this section apply to small motion picture productions. The department shall adopt rules as necessary to implement this subsection (10).

(11) Funding assistance approval must be determined by the approved motion picture competitiveness program within a maximum of thirty calendar days from when the application is received, if the application is submitted after August 15, 2006. For small motion picture productions, the approved motion picture competitiveness program, after determining a conditional approval of the production, shall hold the production's funding assistance in reserve while the entity seeking funding assistance for the production secures financing for the remainder of the budget. Once the entity seeking funding assistance for the production demonstrates to the program that it has secured the necessary financing, the program shall certify the small motion picture production as approved. If the entity seeking funding assistance cannot demonstrate

within six months from the date of conditional approval that it has secured the total budget, the program must make the funding assistance available to other eligible applicants with funding assistance approval.

(12) By December 31, 2022, and annually thereafter, the department, on behalf of the board, must report to the legislature on the approved motion picture competitiveness program. This report may include information required in the survey established in RCW 43.365.040. At a minimum, the report must include an annual list of recipients awarded financial assistance from the prior year with total estimated production costs, locations of each production, and the board's progress towards the goal of at least 20 percent of its funding assistance provided to motion picture productions located or filmed in rural communities and 20 percent of its funding assistance provided to motion picture productions that tell stories of marginalized communities. The report must also include information on workforce development, career connected learning, and business development activities, including whether they have been scaled up in size from the previous year and how they are meeting the goal of supporting people from marginalized communities.

(13) The approved motion picture competitiveness program must allocate funds for training and job placement for marginalized communities as follows:

(a) For fiscal years 2023 and 2024, a minimum of \$500,000 for each fiscal year; and

(b) For each fiscal year on or after July 1, 2024, a minimum of \$750,000. [2022 c 270 § 4; 2012 c 189 § 2; 2009 c 100 § 1; 2008 c 85 § 1; 2006 c 247 § 3.]

Additional notes found at www.leg.wa.gov

43.365.030 Board of directors—Standards for evaluating funding applications—Awards of financial assistance—Deposit of contributions—Rules—Duties of directors. (1) A Washington motion picture competitiveness program under this chapter must be administered by a board of directors appointed by the governor, and the appointments must be made within sixty days following enactment. The department, after consulting with the board, must adopt rules for the standards that shall be used to evaluate the applications for funding assistance prior to June 30, 2006.

(2) The board must evaluate and award financial assistance to motion picture projects under rules set forth under RCW 43.365.020.

(3) The board must consist of the following members:

(a) Two members representing the Washington motion picture production industry, one of whom must demonstrate expertise in the financing of motion picture projects;

(b) One member representing technologies impacting the Washington emerging motion picture industry;

(c) Two members representing labor unions affiliated with Washington motion picture production;

(d) Three members representing industries and businesses impacted by motion picture production, one of whom must represent industries or businesses located east of the crest of the Cascade mountain range and one of whom must represent industries or businesses located west of the crest of the Cascade mountain range;

(e) Two cochair of the board's equity committee, not already serving on the board, recommended by the board to the governor;

(f) Two cochair of the board's advisory committee, also known as the film leadership council, not already serving on the board, recommended by the board to the governor; and

(g) A chairperson, chosen at large, must serve at the pleasure of the governor.

(4) The term of the board members, other than the chair, is four years, except as provided in subsection (5) of this section.

(5) The governor must appoint board members to four-year staggered terms, except the board member initially appointed to the position in subsection (3)(b) of this section and the board member initially appointed to the position in subsection (3)(f) of this section must each be appointed to a two-year term. Once those initial two-year terms expire, all subsequent terms are for four years.

(6) A board member appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080.

(7) Seven members of the board constitute a quorum.

(8) The board must elect a treasurer and secretary annually, and other officers as the board members determine necessary, and may adopt bylaws or rules for its own government.

(9) The board must make any information available at the request of the department to administer this chapter.

(10) Contributions received by a board must be deposited into the account described in RCW 43.365.020(2).

(11) Board members must comply with all requirements of a 501(c)(6) organization, including the prohibition on using information obtained as a board member for personal gain. Board members must act in the best interest of the approved motion picture competitiveness program. Each board member is required to complete an annual conflicts of interest form to disclose all conflicts and potential conflicts of interest with board actions. If a board member has a conflict of interest with respect to an application for funding assistance, the board member must disclose the board member's conflict and not be present for a discussion or vote on the application. [2022 c 270 § 3; 2012 c 189 § 3; 2008 c 85 § 2; 2006 c 247 § 4.]

43.365.040 Annual survey. (1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how incentives are used.

(2) Each motion picture production receiving funding assistance under RCW 43.365.020 must report information to the department by filing a complete annual survey. The survey is due by March 31st of the year following any calendar year in which funding assistance under RCW 43.365.020 is taken. The department may extend the due date for timely filing of annual surveys under this section if failure to file was the result of circumstances beyond the control of the motion picture production receiving the funding assistance.

(3) The Washington motion picture competitiveness program established in RCW 43.365.030, in collaboration with the department and the department of revenue, and in consul-

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tation with the joint legislative audit and review committee, must develop a survey form and instructions that accompany the survey form by November 1, 2012. The instructions must provide sufficient detail to ensure consistent reporting. The survey must be designed to acquire data to allow the state to better measure the effectiveness of the program and to provide transparency of the motion picture competitiveness program. The survey must include:

(a) The total amount of taxes paid;

(b) The amount of taxes paid classified by type, which may include, but is not limited to, sales taxes, use taxes, business and occupation taxes, unemployment insurance taxes, and workers' compensation premiums;

(c) The amount of funding assistance received; and

(d) The following information for employment positions in Washington by the motion picture production receiving funding assistance, including indirect employment by contractors or other affiliates:

(i) The number of total employment positions;

(ii) The average number of hours worked by employed individuals;

(iii) The average base pay of individuals employed by motion picture companies, including contributions to health care benefits and retirement plans;

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits; and

(v) The number of employment positions filled by Washington state residents, and residency information for employment positions filled by people from other locations.

(4) The department may request additional information necessary to measure the results of the funding assistance, to be submitted at the same time as the survey.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the report or any extension the department must declare the amount of funding assistance for the previous calendar year to be immediately due and payable. The department must assess interest, but not penalties, on the amounts due under this section. The interest is assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date the funding assistance was received, and accrues until the funding assistance is repaid.

(6) The department must use the information from this section to prepare summary descriptive statistics. The department must report these statistics to the legislature each even-numbered year by September 1st. The department must provide the complete annual surveys to the joint legislative audit and review committee, which shall perform a review as required under RCW 43.365.050.

(7) The motion picture competitiveness program must periodically audit and generally monitor the survey information submitted by production companies for completeness and accuracy. [2022 c 270 § 6; 2012 c 189 § 5; 2009 c 518 § 14; 2006 c 247 § 6.]

43.365.050 Review by joint legislative audit and review committee—Recommendation to legislature. (1) It is the legislature's specific public policy objective to increase the viability of the motion picture and film industry and associated creative industries in Washington state. It is the legis-

lature's intent to increase the credit available under RCW 82.04.4489 in order to attract additional motion picture and film projects, thereby increasing family-wage jobs.

(2) The joint legislative audit and review committee must review and make a recommendation to the fiscal committees of the legislature by December 1, 2026, regarding the effectiveness of the motion picture competitiveness program including, but not limited to, the amount of state revenue generated, the amount and number of family-wage jobs with benefits created, adherence to the criteria in RCW 43.365.020, changes in Washington's share of the film employment market, and any other factors deemed appropriate by the joint legislative audit and review committee.

(3) In order to obtain the data necessary to perform the review in subsection (2) of this section, the joint legislative audit and review committee may refer to tax data provided to the department of revenue and the annual survey required under RCW 43.365.040. [2022 c 270 § 7; 2006 c 247 § 7.]

Chapter 43.370 RCW

STATEWIDE HEALTH RESOURCES STRATEGY

Sections

43.370.010	Definitions.
43.370.020	Office of financial management—Duties.
43.370.030	Development of strategy—Goals and principles—Required elements—Reports—Public hearings.
43.370.040	Department of health—Certificate of need review program.
43.370.050	Requests for data and other information.
43.370.900	Severability—Subheadings not law—2007 c 259.

43.370.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Health care provider" means an individual who holds a license issued by a disciplining authority identified in RCW 18.130.040 and who practices his or her profession in a health care facility or provides a health service.

(2) "Health facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers, ambulatory diagnostic, treatment, or surgical facilities, drug and alcohol treatment facilities licensed under *chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision, including a public hospital district, or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(3) "Health service" or "service" means that service, including primary care service, offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Health service area" means a geographic region appropriate for effective health planning that includes a broad range of health services.

(5) "Office" means the office of financial management.

(6) "Strategy" means the statewide health resources strategy. [2007 c 259 § 50.]

*Reviser's note: Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 sp.s. c 29 §§ 301, 601, and 701.

43.370.020 Office of financial management—Duties.

(1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) Have access to the information submitted as part of the health professional licensing application and renewal process, excluding social security number and background check information, whether the license is issued by the secretary of the department of health or a board or commission. The office shall also have access to information submitted to the department of health as part of the medical or health facility licensing process. Access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines, and the office shall maintain the same degree of confidentiality as the department of health. For professional licensing information provided to the office, the department of health shall replace any social security number with an alternative identifier capable of linking all licensing records of an individual; and

(d) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy. [2010 1st sp.s. c 7 § 113; 2009 c 343 § 1; 2007 c 259 § 51.]

Additional notes found at www.leg.wa.gov

43.370.030 Development of strategy—Goals and principles—Required elements—Reports—Public hearings. (1) The office shall develop a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; and

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projec-

tions of need for health facilities and services, are essential to effective strategic health planning.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and direct certificate of need determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of

health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit the initial strategy to the governor and the appropriate committees of the senate and house of representatives by January 1, 2010. Every two years the office shall submit an updated strategy. The health care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule.

(5) The office shall hold at least one public hearing and allow opportunity to submit written comments prior to the issuance of the initial strategy or an updated strategy. A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment. [2010 1st sp.s. c 7 § 114; 2007 c 259 § 52.]

Additional notes found at www.leg.wa.gov

43.370.040 Department of health—Certificate of need review program. The office shall submit the strategy to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. As the health care facilities and services plan is updated for any specific geographic planning region, the office shall submit that plan to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. The office shall not issue determinations of the merits of specific project proposals submitted by applicants for certificates of need. [2007 c 259 § 53.]

43.370.050 Requests for data and other information.

(1) The office may respond to requests for data and other information from its computerized system for special studies and analysis consistent with requirements for confidentiality of patient, provider, and facility-specific records. The office may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) Data elements related to the identification of individual patient's, provider's, and facility's care outcomes are confidential, are exempt from RCW 42.56.030 through 42.56.570 and *42.17.350 through 42.17.450, and are not subject to discovery by subpoena or admissible as evidence. [2007 c 259 § 54.]

***Reviser's note:** Chapter 42.17 RCW relating to "campaign finance" was recodified pursuant to 2010 c 204 § 1102, effective January 1, 2012. See Comparative Table for chapter 42.17 RCW in the Table of Disposition of Former RCW Sections.

43.370.900 Severability—Subheadings not law—2007 c 259. See notes following RCW 41.05.033.

Chapter 43.371 RCW

STATEWIDE HEALTH CARE CLAIMS DATA

Sections

43.371.005	Findings.
43.371.010	Definitions.
43.371.020	Statewide all-payer health care claims database—Selection and duties of lead organization—Certification as qualified entity pursuant to 42 C.F.R. Sec. 401.703(a)—Contract with data vendor.
43.371.030	Submission of claims data to database—Annual status report.
43.371.040	Claims data and database—Exempt from public disclosure—Not subject to subpoena or compulsory process.
43.371.050	Availability of claims or data for retrieval—Confidentiality of claims or data—Duties of the lead organization and the data vendor.
43.371.060	Health care data reports—Public comment period—Preparation—Contents—Publication or release of reports.
43.371.070	Rules.
43.371.080	Cost, performance, and effectiveness of database and performance of lead organization—Reports to the legislature.
43.371.090	State agency coordinating structure—Biennial review—Recommendations.
43.371.100	Development of data set and business process to assist in determining commercially reasonable payment amounts and resolving out-of-network payment disputes for medical services covered under the balance billing protection act.

43.371.005 Findings. The legislature finds that:

(1) The activities authorized by this chapter will require collaboration among state agencies and local governments that are involved in health care, private health carriers, third-party purchasers, health care providers, and hospitals. These activities will identify strategies to increase the quality and effectiveness of health care delivered in Washington state and are therefore in the best interest of the public.

(2) The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature intends to exempt from state antitrust laws, and provide immunity through the state action doctrine from federal antitrust laws, activities that are undertaken, reviewed, and approved by the authority pursuant to this chapter that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities including, but not limited to, agreements among competing providers or carriers to set prices or specific levels of reimbursement for health care services. [2019 c 319 § 1; 2014 c 223 § 9.]

Effective date—2019 c 319: See note following RCW 43.371.020.

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the health care authority.

(2) "Carrier" and "health carrier" have the same meaning as in RCW 48.43.005.

(3) "Claims data" means the data required by RCW 43.371.030 to be submitted to the database, including billed, allowed and paid amounts, and such additional information as defined by the director in rule.

(4) "Data supplier" means: (a) A carrier, third-party administrator, or a public program identified in RCW 43.371.030 that provides claims data; and (b) a carrier or any other entity that provides claims data to the database at the request of an employer-sponsored self-funded health plan or Taft-Hartley trust health plan pursuant to RCW 43.371.030(1).

(5) "Data vendor" means an entity contracted to perform data collection, processing, aggregation, extracts, analytics, and reporting.

(6) "Database" means the statewide all-payer health care claims database established in RCW 43.371.020.

(7) "Direct patient identifier" means a data variable that directly identifies an individual, including: Names; telephone numbers; fax numbers; social security number; medical record numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators; internet protocol address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(8) "Director" means the director of the authority.

(9) "Indirect patient identifier" means a data variable that may identify an individual when combined with other information.

(10) "Lead organization" means the organization selected under RCW 43.371.020.

(11) "Office" means the office of financial management.

(12) "Proprietary financial information" means claims data or reports that disclose or would allow the determination of specific terms of contracts, discounts, or fixed reimbursement arrangements or other specific reimbursement arrangements between an individual health care facility or health care provider, as those terms are defined in RCW 48.43.005, and a specific payer, or internal fee schedule or other internal pricing mechanism of integrated delivery systems owned by a carrier.

(13) "Unique identifier" means an obfuscated identifier assigned to an individual represented in the database to establish a basis for following the individual longitudinally throughout different payers and encounters in the data without revealing the individual's identity. [2019 c 319 § 2. Prior: 2015 c 246 § 1; 2014 c 223 § 8.]

Effective date—2019 c 319: See note following RCW 43.371.020.

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.020 Statewide all-payer health care claims database—Selection and duties of lead organization—Certification as qualified entity pursuant to 42 C.F.R. Sec. 401.703(a)—Contract with data vendor. (1) The office shall establish a statewide all-payer health care claims database. On January 1, 2020, the office must transfer authority and oversight for the database to the authority. The office and authority must develop a transition plan that sustains operations by July 1, 2019. The database shall support transparent public reporting of health care information. The data-

base must improve transparency to: Assist patients, providers, and hospitals to make informed choices about care; enable providers, hospitals, and communities to improve by benchmarking their performance against that of others by focusing on best practices; enable purchasers to identify value, build expectations into their purchasing strategy, and reward improvements over time; and promote competition based on quality and cost. The database must systematically collect all medical claims and pharmacy claims from private and public payers, with data from all settings of care that permit the systematic analysis of health care delivery.

(2) The authority shall use a competitive procurement process, in accordance with chapter 39.26 RCW, to select a lead organization from among the best potential bidders to coordinate and manage the database.

(a)(i) In conducting the competitive procurement, the authority must ensure that no state officer or state employee participating in the procurement process:

(A) Has a current relationship or had a relationship within the last three years with any organization that bids on the procurement that would constitute a conflict with the proper discharge of official duties under chapter 42.52 RCW; or

(B) Is a compensated or uncompensated member of a bidding organization's board of directors, advisory committee, or has held such a position in the past three years.

(ii) If any relationship or interest described in (a)(i) of this subsection is discovered during the procurement process, the officer or employee with the prohibited relationship must withdraw from involvement in the procurement process.

(b) Due to the complexities of the all-payer claims database and the unique privacy, quality, and financial objectives, the authority must give strong consideration to the following elements in determining the appropriate lead organization contractor: (i) The organization's degree of experience in health care data collection, analysis, analytics, and security; (ii) whether the organization has a long-term self-sustainable financial model; (iii) the organization's experience in convening and effectively engaging stakeholders to develop reports, especially among groups of health providers, carriers, and self-insured purchasers; (iv) the organization's experience in meeting budget and timelines for report generations; and (v) the organization's ability to combine cost and quality data to assess total cost of care.

(c) The successful lead organization must apply to be certified as a qualified entity pursuant to 42 C.F.R. Sec. 401.703(a) by the centers for medicare and medicaid services.

(d) The authority may not select a lead organization that:

(i) Is a health plan as defined by and consistent with the definitions in RCW 48.43.005;

(ii) Is a hospital as defined in RCW 70.41.020;

(iii) Is a provider regulated under Title 18 RCW;

(iv) Is a third-party administrator as defined in RCW 70.290.010; or

(v) Is an entity with a controlling interest in any entity covered in (d)(i) through (iv) of this subsection.

(3) As part of the competitive procurement process referenced in subsection (2) of this section, the lead organization shall enter into a contract with a data vendor or multiple data

vendors to perform data collection, processing, aggregation, extracts, and analytics. A data vendor must:

(a) Establish a secure data submission process with data suppliers;

(b) Review data submitters' files according to standards established by the authority;

(c) Assess each record's alignment with established format, frequency, and consistency criteria;

(d) Maintain responsibility for quality assurance, including, but not limited to: (i) The accuracy and validity of data suppliers' data; (ii) accuracy of dates of service spans; (iii) maintaining consistency of record layout and counts; and (iv) identifying duplicate records;

(e) Assign unique identifiers, as defined in RCW 43.371.010, to individuals represented in the database;

(f) Ensure that direct patient identifiers, indirect patient identifiers, and proprietary financial information are released only in compliance with the terms of this chapter;

(g) Demonstrate internal controls and affiliations with separate organizations as appropriate to ensure safe data collection, security of the data with state of the art encryption methods, actuarial support, and data review for accuracy and quality assurance;

(h) Store data on secure servers that are compliant with the federal health insurance portability and accountability act and regulations, with access to the data strictly controlled and limited to staff with appropriate training, clearance, and background checks; and

(i) Maintain state of the art security standards for transferring data to approved data requestors.

(4) The lead organization and data vendor must submit detailed descriptions to the office of the chief information officer to ensure robust security methods are in place. The office of the chief information officer must report its findings to the authority and the appropriate committees of the legislature.

(5) The lead organization is responsible for internal governance, management, funding, and operations of the database. At the direction of the authority, the lead organization shall work with the data vendor to:

(a) Collect claims data from data suppliers as provided in RCW 43.371.030;

(b) Design data collection mechanisms with consideration for the time and cost incurred by data suppliers and others in submission and collection and the benefits that measurement would achieve, ensuring the data submitted meet quality standards and are reviewed for quality assurance;

(c) Ensure protection of collected data and store and use any data in a manner that protects patient privacy and complies with this section. All patient-specific information must be deidentified with an up-to-date industry standard encryption algorithm;

(d) Consistent with the requirements of this chapter, make information from the database available as a resource for public and private entities, including carriers, employers, providers, hospitals, and purchasers of health care;

(e) Report performance on cost and quality pursuant to RCW 43.371.060 using, but not limited to, the performance measures developed under RCW 41.05.690;

(f) Develop protocols and policies, including prerelease peer review by data suppliers, to ensure the quality of data releases and reports;

(g) Develop a plan for the financial sustainability of the database as may be reasonable and customary as compared to other states' databases and charge fees for reports and data files as needed to fund the database. Any fees must be approved by the authority and should be comparable, accounting for relevant differences across data requests and uses. The lead organization may not charge providers or data suppliers fees other than fees directly related to requested reports and data files; and

(h) Convene advisory committees with the approval and participation of the authority, including: (i) A committee on data policy development; and (ii) a committee to establish a data release process consistent with the requirements of this chapter and to provide advice regarding formal data release requests. The advisory committees must include in-state representation from key provider, hospital, public health, health maintenance organization, large and small private purchasers, consumer organizations, and the two largest carriers supplying claims data to the database.

(6) The lead organization governance structure and advisory committees for this database must include representation of the third-party administrator of the uniform medical plan. A payer, health maintenance organization, or third-party administrator must be a data supplier to the all-payer health care claims database to be represented on the lead organization governance structure or advisory committees. [2019 c 319 § 3; 2015 c 246 § 2; 2014 c 223 § 10.]

Transfer of powers, duties, and functions from the office of financial management to the health care authority—2019 c 319: "(1) The powers, duties, and functions of the office of financial management provided in chapter 43.371 RCW, except as otherwise specified in this act, are transferred to the health care authority.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material necessary for the health care authority to carry out the powers, duties, and functions in chapter 43.371 RCW being transferred from the office of financial management to the health care authority and that are in the possession of the office of financial management must be delivered to the custody of the health care authority. All funds or credits of the office of financial management that are solely for the purposes of fulfilling the powers, duties, and functions in chapter 43.371 RCW shall be assigned to the health care authority.

(b) Any specific appropriations made to the office of financial management for the sole purpose of fulfilling the duties, powers, and functions in chapter 43.371 RCW must, on May 8, 2019, be transferred and credited to the health care authority.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management must make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and pending business before the office of financial management specifically related to its powers, duties, and functions in chapter 43.371 RCW that are being transferred to the health care authority shall be continued and acted upon by the health care authority. All existing contracts and obligations remain in full force and must be performed by the health care authority.

(4) The transfer of the powers, duties, and functions of the office of financial management does not affect the validity of any act performed before May 8, 2019.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these must make the appropriate transfer and adjust-

ments in funds and appropriation accounts and equipment records in accordance with the certification." [2019 c 319 § 11.]

Effective date—2019 c 319: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 8, 2019]." [2019 c 319 § 13.]

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.030 Submission of claims data to database—Annual status report. (1) The state medicaid program, public employees' benefits board programs, school employees' benefits board programs beginning July 1, 2020, all health carriers operating in this state, all third-party administrators paying claims on behalf of health plans in this state, and the state labor and industries program must submit claims data to the database within the time frames established by the director in rule and in accordance with procedures established by the lead organization. The director may expand this requirement by rule to include any health plans or health benefit plans defined in *RCW 48.43.005(26) (a) through (i) to accomplish the goals of this chapter set forth in RCW 43.371.020(1). Employer-sponsored self-funded health plans and Taft-Hartley trust health plans may voluntarily provide claims data to the database within the time frames and in accordance with procedures established by the lead organization.

(2) Any data supplier used by an entity that voluntarily participates in the database must provide claims data to the data vendor upon request of the entity.

(3) The lead organization shall submit an annual status report to the authority regarding compliance with this section. [2019 c 319 § 4; 2015 c 246 § 3; 2014 c 223 § 11.]

***Reviser's note:** RCW 48.43.005 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (26) to subsection (27), and effective January 1, 2020, changing subsection (26) to subsection (29). RCW 48.43.005 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (29) to subsection (31).

Effective date—2019 c 319: See note following RCW 43.371.020.

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.040 Claims data and database—Exempt from public disclosure—Not subject to subpoena or compulsory process. (1) The claims data provided to the database, the database itself, including the data compilation, and any raw data received from the database are not public records and are exempt from public disclosure under chapter 42.56 RCW.

(2) Claims data obtained, distributed, or reported in the course of activities undertaken pursuant to or supported under this chapter are not subject to subpoena or similar compulsory process in any civil or criminal, judicial, or administrative proceeding, nor may any individual or organization with lawful access to data under this chapter be compelled to provide such information pursuant to subpoena or testify with regard to such data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this chapter. [2015 c 246 § 4; 2014 c 223 § 12.]

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.050 Availability of claims or data for retrieval—Confidentiality of claims or data—Duties of the lead organization and the data vendor. (1) Except as otherwise required by law, claims or other data from the database shall only be available for retrieval in processed form to public and private requesters pursuant to this section and shall be made available within a reasonable time after the request. Each request for claims data must include, at a minimum, the following information:

(a) The identity of any entities that will analyze the data in connection with the request;

(b) The stated purpose of the request and an explanation of how the request supports the goals of this chapter set forth in RCW 43.371.020(1);

(c) A description of the proposed methodology;

(d) The specific variables requested and an explanation of how the data is necessary to achieve the stated purpose described pursuant to (b) of this subsection;

(e) How the requester will ensure all requested data is handled in accordance with the privacy and confidentiality protections required under this chapter and any other applicable law;

(f) The method by which the data will be destroyed at the conclusion of the data use agreement;

(g) The protections that will be utilized to keep the data from being used for any purposes not authorized by the requester's approved application; and

(h) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(2) The lead organization may decline a request that does not include the information set forth in subsection (1) of this section that does not meet the criteria established by the lead organization's data release advisory committee, or for reasons established by rule.

(3) Except as otherwise required by law, the authority shall direct the lead organization and the data vendor to maintain the confidentiality of claims or other data it collects for the database that include proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Any entity that receives claims or other data must also maintain confidentiality and may only release such claims data or any part of the claims data if:

(a) The claims data does not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof; and

(b) The release is described and approved as part of the request in subsection (1) of this section.

(4) The lead organization shall, in conjunction with the authority and the data vendor, create and implement a process to govern levels of access to and use of data from the database consistent with the following:

(a) Claims or other data that include proprietary financial information, direct patient identifiers, indirect patient identifiers, unique identifiers, or any combination thereof may be released only to the extent such information is necessary to achieve the goals of this chapter set forth in RCW 43.371.020(1) to researchers with approval of an institutional review board upon receipt of a signed data use and confidentiality agreement with the lead organization. A researcher or

research organization that obtains claims data pursuant to this subsection must agree in writing not to disclose such data or parts of the data set to any other party, including affiliated entities, and must consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(b) Claims or other data that do not contain direct patient identifiers, but that may contain proprietary financial information, indirect patient identifiers, unique identifiers, or any combination thereof may be released to:

(i) Federal, state, tribal, and local government agencies upon receipt of a signed data use agreement with the authority and the lead organization. Federal, state, tribal, and local government agencies that obtain claims data pursuant to this subsection are prohibited from using such data in the purchase or procurement of health benefits for their employees;

(ii) Any entity when functioning as the lead organization under the terms of this chapter; and

(iii) The Washington health benefit exchange established under chapter 43.71 RCW, upon receipt of a signed data use agreement with the authority and the lead organization as directed by rules adopted under this chapter.

(c) Claims or other data that do not contain proprietary financial information, direct patient identifiers, or any combination thereof, but that may contain indirect patient identifiers, unique identifiers, or a combination thereof may be released to agencies, researchers, and other entities as approved by the lead organization upon receipt of a signed data use agreement with the lead organization.

(d) Claims or other data that do not contain direct patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof may be released upon request.

(5) Reports utilizing data obtained under this section may not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Nothing in this subsection (5) may be construed to prohibit the use of geographic areas with a sufficient population size or aggregate gender, age, medical condition, or other characteristics in the generation of reports, so long as they cannot lead to the identification of an individual.

(6) Reports issued by the lead organization at the request of providers, facilities, employers, health plans, and other entities as approved by the lead organization may utilize proprietary financial information to calculate aggregate cost data for display in such reports. The authority shall approve by rule a format for the calculation and display of aggregate cost data consistent with this chapter that will prevent the disclosure or determination of proprietary financial information. In developing the rule, the authority shall solicit feedback from the stakeholders, including those listed in RCW 43.371.020(5)(h), and must consider, at a minimum, data presented as proportions, ranges, averages, and medians, as well as the differences in types of data gathered and submitted by data suppliers.

(7) Recipients of claims or other data under subsection (4) of this section must agree in a data use agreement or a confidentiality agreement to, at a minimum:

(a) Take steps to protect data containing direct patient identifiers, indirect patient identifiers, proprietary financial

information, or any combination thereof as described in the agreement;

(b) Not redisclose the claims data except pursuant to subsection (3) of this section;

(c) Not attempt to determine the identity of any person whose information is included in the data set or use the claims or other data in any manner that identifies any individual or their family or attempt to locate information associated with a specific individual;

(d) Destroy claims data at the conclusion of the data use agreement; and

(e) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1). [2019 c 319 § 5; 2015 c 246 § 5; 2014 c 223 § 13.]

Effective date—2019 c 319: See note following RCW 43.371.020.

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.060 Health care data reports—Public comment period—Preparation—Contents—Publication or release of reports. (1)(a) Under the supervision of and through contract with the authority, the lead organization shall prepare health care data reports using the database and the statewide health performance and quality measure set. Prior to the lead organization releasing any health care data reports that use claims data, the lead organization must submit the reports to the authority for review.

(b) By October 31st of each year, the lead organization shall submit to the director a list of reports it anticipates producing during the following calendar year. The director may establish a public comment period not to exceed thirty days, and shall submit the list and any comment to the appropriate committees of the legislature for review.

(2)(a) Health care data reports that use claims data prepared by the lead organization for the legislature and the public should promote awareness and transparency in the health care market by reporting on:

(i) Whether providers and health systems deliver efficient, high quality care; and

(ii) Geographic and other variations in medical care and costs as demonstrated by data available to the lead organization.

(b) Measures in the health care data reports should be stratified by demography, income, language, health status, and geography when feasible with available data to identify disparities in care and successful efforts to reduce disparities.

(c) Comparisons of costs among providers and health care systems must account for differences in the case mix and severity of illness of patients and populations, as appropriate and feasible, and must take into consideration the cost impact of subsidization for uninsured and government-sponsored patients, as well as teaching expenses, when feasible with available data.

(3) The lead organization may not publish any data or health care data reports that:

(a) Directly or indirectly identify individual patients;

(b) Disclose a carrier's proprietary financial information;

(c) Compare performance in a report generated for the general public that includes any provider in a practice with fewer than four providers; or

(d) Contain medicaid data that is in direct conflict with the biannual medicaid forecast.

(4) The lead organization may not release a report that compares and identifies providers, hospitals, or data suppliers unless:

(a) It allows the data supplier, the hospital, or the provider to verify the accuracy of the information submitted to the data vendor, comment on the reasonableness of conclusions reached, and submit to the lead organization and data vendor any corrections of errors with supporting evidence and comments within thirty days of receipt of the report;

(b) It corrects data found to be in error within a reasonable amount of time; and

(c) The report otherwise complies with this chapter.

(5) The authority and the lead organization may use claims data to identify and make available information on payers, providers, and facilities, but may not use claims data to recommend or incentivize direct contracting between providers and employers.

(6) The lead organization shall make information about claims data related to the provision of air ambulance service available on a website that is accessible to the public in a searchable format by geographic region, provider, and other relevant information.

(7)(a) The lead organization shall distinguish in advance to the authority when it is operating in its capacity as the lead organization and when it is operating in its capacity as a private entity. Where the lead organization acts in its capacity as a private entity, it may only access data pursuant to RCW 43.371.050(4) (b), (c), or (d).

(b) Except as provided in RCW 43.371.050(4), claims or other data that contain direct patient identifiers or proprietary financial information must remain exclusively in the custody of the data vendor and may not be accessed by the lead organization. [2020 c 131 § 1; 2019 c 319 § 6; 2015 c 246 § 6; 2014 c 223 § 14.]

Effective date—2019 c 319: See note following RCW 43.371.020.

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.070 Rules. (1) The director shall adopt any rules necessary to implement this chapter, including:

(a) Definitions of claim and data files that data suppliers must submit to the database, including: Files for covered medical services, pharmacy claims, and dental claims; member eligibility and enrollment data; and provider data with necessary identifiers;

(b) Deadlines for submission of claim files;

(c) Penalties for failure to submit claim files as required;

(d) Procedures for ensuring that all data received from data suppliers are securely collected and stored in compliance with state and federal law;

(e) Procedures for ensuring compliance with state and federal privacy laws;

(f) Procedures for establishing appropriate fees;

(g) Procedures for data release;

(h) Penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information; and

(i) A minimum reporting threshold below which a data supplier is not required to submit data.

(2) The director may not adopt rules, policies, or procedures beyond the authority granted in this chapter. [2019 c 319 § 7; 2015 c 246 § 7; 2014 c 223 § 15.]

Effective date—2019 c 319: See note following RCW 43.371.020.

Finding—2014 c 223: See note following RCW 41.05.690.

43.371.080 Cost, performance, and effectiveness of database and performance of lead organization—Reports to the legislature. (1) The authority shall report every two years to the appropriate committees of the legislature regarding the cost, performance, and effectiveness of the database and the performance of the lead organization under its contract with the authority. Using independent economic expertise, subject to appropriation, the report must evaluate whether the database has advanced the goals set forth in RCW 43.371.020(1), as well as the performance of the lead organization. The report must also make recommendations regarding but not limited to how the database can be improved, whether the contract for the lead organization should be modified, renewed, or terminated, and the impact the database has had on competition between and among providers, purchasers, and payers.

(2) The authority shall annually report to the appropriate committees of the legislature regarding any additional grants received or extended. [2019 c 319 § 8; 2015 c 246 § 8.]

Effective date—2019 c 319: See note following RCW 43.371.020.

43.371.090 State agency coordinating structure—Biennial review—Recommendations. (1) To ensure the database is meeting the needs of state agencies and other data users, the authority shall convene a state agency coordinating structure, consisting of state agencies with related data needs and the Washington health benefit exchange to ensure effectiveness of the database and the agencies' programs. The coordinating structure must collaborate in a private/public manner with the lead organization and other partners key to the broader success of the database. The coordinating structure shall advise the authority and lead organization on the development of any database policies and rules relevant to agency data needs.

(2) The office must participate as a key part of the coordinating structure and evaluate progress towards meeting the goals of the database, and, as necessary, recommend strategies for maintaining and promoting the progress of the database in meeting the intent of this section, and report its findings biennially to the governor and the legislature. The authority shall facilitate the office obtaining the information needed to complete the report in a manner that is efficient and not overly burdensome for the parties. The authority must provide the office with access to database processes, procedures, nonproprietary methodologies, and outcomes to conduct the review and issue the biennial report. The biennial review shall assess, at a minimum the following:

(a) The list of approved agency use case projects and related data requirements under RCW 43.371.050(4);

(b) Successful and unsuccessful data requests and outcomes related to agency and nonagency health researchers pursuant to RCW 43.371.050(4);

(c) Online data portal access and effectiveness related to research requests and data provider review and reconsideration;

(d) Adequacy of data security and policy consistent with the policy of the office of the chief information officer; and

(e) Timeliness, adequacy, and responsiveness of the database with regard to requests made under RCW 43.371.050(4) and for potential improvements in data sharing, data processing, and communication.

(3) To promote the goal of improving health outcomes through better cost and quality information, the authority, in consultation with the agency coordinating structure, the office, lead organization, and data vendor shall make recommendations to the Washington state performance measurement coordinating committee as necessary to improve the effectiveness of the state common measure set as adopted under RCW 70.320.030. [2019 c 319 § 9.]

Effective date—2019 c 319: See note following RCW 43.371.020.

43.371.100 Development of data set and business process to assist in determining commercially reasonable payment amounts and resolving out-of-network payment disputes for medical services covered under the balance billing protection act. (1) The office of the insurance commissioner shall contract with the state agency responsible for administration of the database and the lead organization to establish a data set and business process to provide health carriers, health care providers, hospitals, ambulatory surgical facilities, and arbitrators with data to assist in determining commercially reasonable payments and resolving payment disputes for out-of-network medical services rendered by health care facilities or providers.

(a) The data set and business process must be developed in collaboration with health carriers, health care providers, hospitals, and ambulatory surgical facilities.

(b) The data set must provide the amounts for the services described in RCW 48.49.020. The data used to calculate the median in-network and out-of-network allowed amounts and the median billed charge amounts by geographic area, for the same or similar services, must be drawn from commercial health plan claims, and exclude medicare and medicaid claims as well as claims paid on other than a fee-for-service basis.

(c) The data set and business process must be available beginning November 1, 2019, and must be reviewed by an advisory committee established under this chapter that includes representatives of health carriers, health care providers, hospitals, and ambulatory surgical facilities for validation before use.

(2) The 2019 data set must be based upon the most recently available full calendar year of claims data. The data set for each subsequent year must be adjusted by applying the consumer price index-medical component established by the United States department of labor, bureau of labor statistics to the previous year's data set.

(3) Until December 31, 2030, the office of the insurance commissioner shall contract with the state agency responsible for administration of the database or other organizations biennially beginning in 2022, for an analysis of commercial health plan claims data to assess any impact that chapter 48.49 RCW or P.L. 116-260 have had or may have had on payments to participating and nonparticipating providers and facilities and on the volume and percentage of claims that are provided by participating compared to nonparticipating pro-

viders. To the extent that data related to self-funded group health plans is available within funds appropriated for this purpose, the analysis may include such data. The first analysis shall compare 2019 claims data to the most recent full year's claims data. The analysis must be published on the website of the office of the insurance commissioner, with the first analysis published on or before December 15, 2022. [2022 c 263 § 1; 2019 c 427 § 26.]

Effective date—2022 c 263: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2022]." [2022 c 263 § 25.]

Findings—Intent—Effective date—2019 c 427: See RCW 48.49.003 and 48.49.900.

Chapter 43.372 RCW MARINE WATERS PLANNING AND MANAGEMENT

Sections

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43.372.005 Findings—Purpose. (1) The legislature finds that:

(a) Native American tribes have depended on the state's marine waters and its resources for countless generations and continue to do so for cultural, spiritual, economic, and subsistence purposes.

(b) The state has long demonstrated a strong commitment to protecting the state's marine waters, which are abundant in natural resources, contain a treasure of biological diversity, and are a source of multiple uses by the public supporting the economies of nearby communities as well as the entire state. These multiple uses include, but are not limited to: Marine-based industries and activities such as cargo, fuel, and passenger transportation; commercial, recreational, and tribal fishing; shellfish aquaculture; telecommunications and energy infrastructure; seafood processing; tourism; scientific research; and many related goods and services. These multiple uses as well as new emerging uses, such as renewable ocean energy, constitute a management challenge for sustaining resources and coordinating state decision making in a proactive, comprehensive and ecosystem-based manner.

(c) Washington's marine waters are part of a west coast-wide large marine ecosystem known as the California current, and the Puget Sound and Columbia river estuaries constitute two of the three largest estuaries that are part of this large marine ecosystem. Puget Sound and the Columbia river are estuaries of national significance under the national estuary program, and the outer coast includes the Olympic national marine sanctuary.

(d) Washington is working in cooperation with the states of Oregon and California and federal agencies on ocean and

ocean health management issues through the west coast governors' agreement on ocean health, and with the government of British Columbia on shared waters management issues through the British Columbia-Washington coastal and ocean task force.

(e) Washington has initiated comprehensive management programs to protect and promote compatible uses of these waters. These include: The development of a comprehensive ecosystem-based management plan known as the Puget Sound action agenda; shoreline plans for shorelines around the state; management plans for state-owned aquatic lands and their associated waters statewide; and watershed and salmon recovery management plans in the upland areas of Puget Sound, the coast, and the Columbia river. Data and data management tools have also been developed to support these management and planning activities, such as the coastal atlas managed by the department of ecology and the shore zone database managed by the department of natural resources.

(f) For marine waters specifically, Washington has formed several mechanisms to improve coordination and management. A legislatively authorized task force formed by the governor identified priority recommendations for improving state management of ocean resources through Washington's ocean action plan in 2006. The governor further formed an ongoing interagency team that assists the department of ecology in implementing these recommendations. There is an extensive network of marine resources committees within Puget Sound and on the outer coast and the Columbia river to promote and support local involvement identifying and conducting local priority marine projects and some have been involved in local planning and management. Through the Olympic coast intergovernmental policy council, the state has also formalized its working relationship with coastal tribes and the federal government in the management of the Olympic coast national marine sanctuary.

(g) Reports by the United States commission on oceans policy, the Pew oceans commission, and the joint oceans commission initiative recommend the adoption of a national ocean policy under which states and coastal communities would have a principal role in developing and implementing ecosystem-based management of marine waters. Acting on these recommendations, the president of the United States recently formed an interagency ocean policy task force charged with developing a national ocean policy and a framework for marine spatial planning that involves all governmental levels, including state, tribal, and local governments. To further develop and implement such a planning framework, it is anticipated that federal cooperation and support will be available to coastal states that are engaged in marine and coastal resource management and planning, including marine spatial planning.

(2) The purpose of this chapter is to build upon existing statewide Puget Sound, coastal, and Columbia river efforts. When resources become available, the state intends to augment the marine spatial component of existing plans and to improve the coordination among state agencies in the development and implementation of marine management plans.

(3) It is also the purpose of this chapter to establish policies to guide state agencies and local governments when exercising jurisdiction over proposed uses and activities in

these waters. Specifically, in conducting marine spatial planning, and in augmenting existing marine management plans with marine spatial planning components, the state must:

(a) Continue to recognize the rights of native American tribes regarding marine natural resources;

(b) Base all planning on best available science. This includes identifying gaps in existing information, recommend a strategy for acquiring science needed to strengthen marine spatial plans, and create a process to adjust plans once additional scientific information is available;

(c) Coordinate with all stakeholders, including marine resources committees and nongovernmental organizations, that are significantly involved in the collection of scientific information, ecosystem protection and restoration, or other activities related to marine spatial planning;

(d) Recognize that marine ecosystems span tribal, state, and international boundaries and that planning has to be coordinated with all entities with jurisdiction or authority in order to be effective;

(e) Establish or further promote an ecosystem-based management approach including linking marine spatial plans to adjacent nearshore and upland spatial or ecosystem-based plans;

(f) Ensure that all marine spatial plans are linked to measurable environmental outcomes;

(g) Establish a performance management system to monitor implementation of any new marine spatial plan;

(h) Establish an ocean stewardship policy that takes into account the existing natural, social, cultural, historic, and economic uses;

(i) Recognize that commercial, tribal, and recreational fisheries, and shellfish aquaculture are an integral part of our state's culture and contribute substantial economic benefits;

(j) Value biodiversity and ecosystem health, and protect special, sensitive, or unique estuarine and marine life and habitats, including important spawning, rearing, and migration areas for finfish, marine mammals, and productive shellfish habitats;

(k) Integrate this planning with existing plans and ongoing planning in the same marine waters and provide additional mechanisms for improving coordination and aligning management;

(l) Promote recovery of listed species under state and federal endangered species acts plans pursuant to those plans; and

(m) Fulfill the state's public trust and tribal treaty trust responsibilities in managing the state's ocean waters in a sustainable manner for current and future generations. [2010 c 145 § 1.]

43.372.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aquatic lands" includes all tidelands, shorelands, harbor areas, and the beds of navigable waters, and must be construed to be coextensive with the term "aquatic lands" as defined in RCW 79.105.060.

(2) "Exclusive economic zone waters" means marine waters from the offshore state boundary to the boundary of the exclusive economic zone, over which the United States government has primary jurisdiction.

(3) "Marine counties" includes Clallam, Jefferson, Grays Harbor, Wahkiakum, San Juan, Whatcom, Skagit, Island, Snohomish, King, Pierce, Thurston, Mason, Kitsap, and Pacific counties.

(4) "Marine ecosystem" means the physical, biological, and chemical components and processes and their interactions in marine waters and aquatic lands, including humans.

(5) "Marine interagency team" or "team" means the marine interagency team created under RCW 43.372.020.

(6) "Marine management plan" and "marine waters management plan" means any plan guiding activities on and uses of the state's marine waters, and may include a marine spatial plan or element.

(7) "Marine resources committees" means those committees organized under RCW 36.125.020 or by counties within the Northwest straits marine conservation initiative.

(8) "Marine spatial planning" means a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives. Often this type of planning is done to reduce conflicts among uses, to reduce environmental impacts, to facilitate compatible uses, to align management decisions, and to meet other objectives determined by the planning process.

(9) "Marine waters" means aquatic lands and waters under tidal influence, including salt waters and estuaries to the ordinary high water mark lying within the boundaries of the state. This definition also includes the portion of the Columbia river bordering Pacific and Wahkiakum counties, Willapa Bay, Grays Harbor, the Strait of Juan de Fuca, and the entire Puget Sound. [2010 c 145 § 2.]

43.372.020 Marine interagency team. (1) The office of the governor shall chair a marine interagency team that is composed of representatives of each of the agencies in the governor's natural resources cabinet with management responsibilities for marine waters, including the independent agencies. A representative from a federal agency with lead responsibility for marine spatial planning must be invited to serve as a liaison to the team to help ensure consistency with federal actions and policy. The team must assist state agencies under RCW 43.372.030 with the review and coordination of such planning with their existing and ongoing planning and conduct the marine management planning authorized in RCW 43.372.040.

(2) The team may not commence any activities authorized under RCW 43.372.030 and 43.372.040 until federal, private, or other funding is secured specifically for these activities. [2012 c 252 § 1; 2010 c 145 § 3.]

43.372.030 Marine spatial data and marine spatial planning elements—Inclusion in planning—Joint plans and planning frameworks—Integration with comprehensive marine management plan. (1) Subject to available federal, private, or other funding for this purpose, all state agencies with marine waters planning and management responsibilities are authorized to include marine spatial data and marine spatial planning elements into their existing plans and ongoing planning.

(2) The director of the Puget Sound partnership under the direction of the leadership council created in RCW 90.71.220

must integrate marine spatial information and planning provisions into the action agenda. The information should be used to address gaps or improve the effectiveness of the spatial planning component of the action agenda, such as in addressing potential new uses such as renewable energy projects.

(3) The governor and the commissioner of public lands, working with appropriate marine management and planning agencies, should work cooperatively with the applicable west coast states, Canadian provinces, and with federal agencies, through existing cooperative entities such as the west coast governor's agreement on ocean health, the coastal and oceans task force, the Pacific coast collaborative, the Puget Sound federal caucus, and the United States and Canada cooperative agreement working group, to explore the benefits of developing joint marine spatial plans or planning frameworks in the shared waters of the Salish Sea, the Columbia river estuary, and in the exclusive economic zone waters. The governor and commissioner may approve the adoption of shared marine spatial plans or planning frameworks where they determine it would further policies of this chapter and chapter 43.143 RCW.

(4) On an ongoing basis, the director of the department of ecology shall work with other state agencies with marine management responsibilities, tribal governments, marine resources committees, local and federal agencies, and marine waters stakeholders to compile marine spatial information and to incorporate this information into ongoing plans. This work may be integrated with the comprehensive marine management plan authorized under RCW 43.372.040 when that planning process is initiated.

(5) All actions taken to implement this section must be consistent with RCW 43.372.060. [2012 c 252 § 2; 2010 c 145 § 5.]

43.372.040 Comprehensive marine management plan. (1) Upon the receipt of federal, private, or other funding for this purpose, the marine interagency team shall coordinate the development of a comprehensive marine management plan for the state's marine waters. The marine management plan must include marine spatial planning, as well as recommendations to the appropriate federal agencies regarding the exclusive economic zone waters.

(2) The comprehensive marine management plan may be developed in geographic segments, and may incorporate or be developed as an element of existing marine plans, such as the Puget Sound action agenda. If the team exercises the option to develop the comprehensive marine management plan in geographic segments, it may proceed with development and adoption of marine management plans for these geographic segments on different schedules.

(3) The chair of the team may designate a state agency with marine management responsibilities to take the lead in developing and recommending to the team particular segments or elements of the comprehensive marine management plan.

(4) The marine management plan must be developed and implemented in a manner that:

(a) Recognizes and respects existing uses and tribal treaty rights;

(b) Promotes protection and restoration of ecosystem processes to a level that will enable long-term sustainable production of ecosystem goods and services;

(c) Addresses potential impacts of climate change and sea level rise upon current and projected marine waters uses and shoreline and coastal impacts;

(d) Fosters and encourages sustainable uses that provide economic opportunity without significant adverse environmental impacts;

(e) Preserves and enhances public access;

(f) Protects and encourages working waterfronts and supports the infrastructure necessary to sustain marine industry, commercial shipping, shellfish aquaculture, and other water-dependent uses;

(g) Fosters public participation in decision making and significant involvement of communities adjacent to the state's marine waters; and

(h) Integrates existing management plans and authorities and makes recommendations for aligning plans to the extent practicable.

(5) To ensure the effective stewardship of the state's marine waters held in trust for the benefit of the people, the marine management plan must rely upon existing data and resources, but also identify data gaps and, as possible, procure missing data necessary for planning.

(6) The marine management plan must include but not be limited to:

(a) An ecosystem assessment that analyzes the health and status of Washington marine waters including key social, economic, and ecological characteristics and incorporates the best available scientific information, including relevant marine data. This assessment should seek to identify key threats to plan goals, analyze risk and management scenarios, and develop key ecosystem indicators. In addition, the plan should incorporate existing adaptive management strategies underway by local, state, or federal entities and provide an adaptive management element to incorporate new information and consider revisions to the plan based upon research, monitoring, and evaluation;

(b) Using and relying upon existing plans and processes and additional management measures to guide decisions among uses proposed for specific geographic areas of the state's marine and estuarine waters consistent with applicable state laws and programs that control or address developments in the state's marine waters;

(c) A series of maps that, at a minimum, summarize available data on: The key ecological aspects of the marine ecosystem, including physical and biological characteristics, as well as areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures; human uses of marine waters, particularly areas with high value for fishing, shellfish aquaculture, recreation, and maritime commerce; and appropriate locations with high potential for renewable energy production with minimal potential for conflicts with other existing uses or sensitive environments;

(d) An element that sets forth the state's recommendations to the federal government for use priorities and limitations, siting criteria, and protection of unique and sensitive biota and ocean floor features within the exclusive economic

zone waters consistent with the policies and management criteria contained in this chapter and chapter 43.143 RCW;

(e) An implementation strategy describing how the plan's management measures and other provisions will be considered and implemented through existing state and local authorities; and

(f) A framework for coordinating state agency and local government review of proposed renewable energy development uses requiring multiple permits and other approvals that provide for the timely review and action upon renewable energy development proposals while ensuring protection of sensitive resources and minimizing impacts to other existing or projected uses in the area.

(7) If the director of the department of fish and wildlife determines that a fisheries management element is appropriate for inclusion in the marine management plan, this element may include the incorporation of existing management plans and procedures and standards for consideration in adopting and revising fisheries management plans in cooperation with the appropriate federal agencies and tribal governments.

(8) Any provision of the marine management plan that does not have as its primary purpose the management of commercial or recreational fishing but that has an impact on this fishing must minimize the negative impacts on the fishing. The team must accord substantial weight to recommendations from the director of the department of fish and wildlife for plan revisions to minimize the negative impacts.

(9) The marine management plan must recognize and value existing uses. All actions taken to implement this section must be consistent with RCW 43.372.060.

(10) The marine management plan must identify any provisions of existing management plans that are substantially inconsistent with the plan.

(11)(a) In developing the marine management plan, the team shall implement a strong public participation strategy that seeks input from throughout the state and particularly from communities adjacent to marine waters. Public review and comment must be sought and incorporated with regard to planning the scope of work as well as in regard to significant drafts of the plan and plan elements.

(b) The team must engage tribes and marine resources committees in its activities throughout the planning process. In particular, prior to finalizing the plan, the team must provide each tribe and marine resources committee with a draft of the plan and invite them to review and comment on the plan.

(12) The director of the department of ecology shall submit the completed marine management plan to the appropriate federal agency for its review and approval for incorporation into the state's federally approved coastal zone management program.

(13) Subsequent to the adoption of the marine management plan, the team may periodically review and adopt revisions to the plan to incorporate new information and to recognize and incorporate provisions in other marine management plans. The team must afford the public an opportunity to review and comment upon significant proposed revisions to the marine management plan. [2012 c 252 § 3; 2010 c 145 § 6.]

43.372.050 Marine management plans—Compliance—Consistency—Review—Report and recommendations. (1) Upon the adoption of the marine management plan under RCW 43.372.040, each state agency and local government must make decisions in a manner that ensures consistency with applicable legal authorities and conformance with the applicable provisions of the marine management plan to the greatest extent possible.

(2) The director of the department of ecology, in coordination with the team, shall periodically review existing management plans maintained by state agencies and local governments that cover the same marine waters as the marine management plan under RCW 43.372.040, and for any substantial inconsistency with the marine management plan the director shall make recommendations to the agency or to the local government for revisions to eliminate the inconsistency.

(3) Not later than four years following adoption of the marine management plan under RCW 43.372.040, the department of ecology, in coordination with the team, shall report to the appropriate marine waters committees in the senate and house of representatives describing provisions of existing management plans that are substantially inconsistent with the marine management plan under RCW 43.372.040, and making recommendations for eliminating the inconsistency.

(4) All actions taken to implement this section must be consistent with RCW 43.372.060. [2010 c 145 § 7.]

43.372.060 Authority limited. No authority is created under this chapter to affect in any way any project, use, or activity in the state's marine waters existing prior to or during the development and review of the marine management plan. No authority is created under this chapter to supersede the current authority of any state agency or local government. [2010 c 145 § 8.]

43.372.070 Marine resources stewardship trust account. (1) The marine resources stewardship trust account is created in the state treasury. All receipts from income derived from the investment of amounts credited to the account, any grants, gifts, or donations to the state for the purposes of marine management planning, marine spatial planning, data compilation, research, or monitoring, and any appropriations made to the account must be deposited in the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may only be used for the purposes of marine management planning, marine spatial planning, research, monitoring, and implementation of the marine management plan.

(3) Except as provided in subsection (5) of this section, until July 1, 2016, expenditures from the account may only be used for the purposes of:

(a) Conducting ecosystem assessment and mapping activities in marine waters consistent with RCW 43.372.040(6) (a) and (c), with a focus on assessment and mapping activities related to marine resource uses and developing potential economic opportunities;

(b) Developing a marine management plan for the state's coastal waters as that term is defined in RCW 43.143.020; and

(c) Coordination under the west coast governors' agreement on ocean health, entered into on September 18, 2006, and other regional planning efforts consistent with RCW 43.372.030.

(4) Expenditures from the account on projects and activities relating to the state's coastal waters, as defined in RCW 43.143.020, must be made, to the maximum extent possible, consistent with the recommendations of the Washington coastal marine advisory council as provided in RCW 43.143.060. If expenditures relating to coastal waters are made in a manner that differs substantially from the Washington coastal marine advisory council's recommendations, the responsible agency receiving the appropriation shall provide the council and appropriate committees of the legislature with a written explanation.

(5) During the 2019-2021 and 2021-2023 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the marine resources stewardship trust account to the aquatic lands enhancement account. [2021 c 334 § 983; 2019 c 415 § 975; 2016 sp.s. c 36 § 938; 2013 c 318 § 3; 2012 c 252 § 4; 2011 c 250 § 2; 2010 c 145 § 10.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Findings—2011 c 250: "(1) The legislature finds that the states of Washington, Oregon, and California have a common interest in the management and protection of ocean and coastal resources. This common interest stems from the many ocean and coastal resources that cross jurisdictional boundaries including winds, currents, fish, and wildlife, as well as the multi-jurisdictional reach of many uses of marine waters. These shared resources provide enormous economic, environmental, and social benefits to the states, and are an integral part of maintaining the high quality of life enjoyed by residents of the west coast.

(2) The legislature finds that the shared nature of ocean and coastal resources make coordination between the states of Washington, Oregon, and California essential in order to achieve effective ocean and coastal resource management and support sustainable coastal communities.

(3) The legislature recognizes the west coast governors' agreement on ocean health, entered into on September 18, 2006, as an important step towards achieving more coordinated management of these ocean and coastal resources.

(4) Ocean and coastal resource planning processes and funding opportunities recently initiated by the federal government contemplate action at the regional level. Early action on the part of Washington, Oregon, and California to collaboratively define and implement such planning efforts and projects will increase the states' ability to determine the course of federal planning processes for the west coast and receive nonstate support for the planning efforts, resource preservation and restoration projects, and projects to support ocean health and sustainable coastal communities.

(5) Therefore, collaboration on ocean and coastal resource management between Washington, Oregon, and California should be continued and enhanced through the respective legislatures, as well as through the respective executive branches through the west coast governors' agreement on ocean health." [2011 c 250 § 1.]

Chapter 43.376 RCW

GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH INDIAN TRIBES

Sections

43.376.010	Definitions.
43.376.020	Government-to-government relationships—State agency duties.
43.376.030	State agency tribal liaison.
43.376.040	Training requirement.
43.376.050	Meetings with statewide elected officials and tribal leaders—List of contact information.

43.376.060 Right of action or right of review not conferred.

43.376.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Indian tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

(2) "State agency" means an agency, department, office, or the office of a statewide elected official, of the state of Washington. [2012 c 122 § 1.]

43.376.020 Government-to-government relationships—State agency duties. In establishing a government-to-government relationship with Indian tribes, state agencies must:

(1) Make reasonable efforts to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly affect Indian tribes and develop a consultation process that is used by the agency for issues involving specific Indian tribes. Covered agencies, as defined in RCW 70A.02.010, subject to the requirements of chapter 70A.02 RCW, must offer consultation with Indian tribes on the actions specified in RCW 70A.02.100. State agencies described in RCW 70A.65.305 must offer consultation with Indian tribes on the actions specified in RCW 70A.65.305;

(2) Designate a tribal liaison who reports directly to the head of the state agency;

(3) Ensure that tribal liaisons who interact with Indian tribes and the executive directors of state agencies receive training as described in RCW 43.376.040; and

(4) Submit an annual report to the governor on activities of the state agency involving Indian tribes and on implementation of this chapter. [2022 c 253 § 3. Prior: 2021 c 316 § 40; 2021 c 314 § 23; 2012 c 122 § 2.]

Short title—2021 c 316: See RCW 70A.65.900.

Conflict with federal requirements—2021 c 314: See note following RCW 70A.02.005.

43.376.030 State agency tribal liaison. The position of tribal liaison within a state agency is responsible for:

(1) Assisting the state agency in developing and implementing state and agency policies that promote effective communication and collaboration between the state agency and tribal governments;

(2) Serving as a contact person with tribal governments and maintaining communication between the state agency and affected tribal governments; and

(3) Coordinating training of state agency employees in government-to-government relations. [2012 c 122 § 3.]

43.376.040 Training requirement. Training required under RCW 43.376.020 for state agency employees must include at a minimum:

(1) Effective communication and collaboration between state agencies and Indian tribes;

(2) Cultural competency in providing effective services to tribal governments and tribal members; and

(3) Use of training services such as those provided through the governor's office of Indian affairs. [2012 c 122 § 4.]

43.376.050 Meetings with statewide elected officials and tribal leaders—List of contact information. (1) At least once a year, the governor and other statewide elected officials must meet with leaders of Indian tribes to address issues of mutual concern.

(2) The governor must maintain for public reference an updated list of the names and contact information for the individuals designated as tribal liaisons and the names and contact information for tribal leadership as submitted by an Indian tribe. [2012 c 122 § 5.]

43.376.060 Right of action or right of review not conferred. Nothing in this chapter creates a right of action against a state agency or a right of review of an action by a state agency. [2012 c 122 § 6.]

Chapter 43.378 RCW

ALLOCATION OF REVENUES DERIVED FROM CERTAIN GEOTHERMAL RESOURCES

Sections

- 43.378.010 Purpose of chapter.
43.378.020 Geothermal account—Created.
43.378.030 Limitations on distributions from the geothermal account.

43.378.010 Purpose of chapter. The purpose of this chapter is to provide for the allocation of revenues distributed to the state under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et seq.) in order to accomplish the following general objectives:

(1) Reduction of dependence on nonrenewable energy and stimulation of the state's economy through development of geothermal energy.

(2) Mitigation of the social, economic, and environmental impacts of geothermal development.

(3) Maintenance of the productivity of renewable resources through the investment of proceeds from these resources. [2013 c 274 § 5.]

Findings—Intent—2013 c 274: See note following RCW 78.60.030.

43.378.020 Geothermal account—Created. (1) There is created the geothermal account in the state treasury. All expenditures from this account are subject to appropriation and chapter 43.88 RCW.

(2) All revenues received by the state treasurer under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et seq.) shall be deposited in the geothermal account in the state treasury immediately upon receipt.

(3) Expenditures from the account may only be used as provided in RCW 43.378.030. [2013 c 274 § 6.]

Findings—Intent—2013 c 274: See note following RCW 78.60.030.

(2022 Ed.)

43.378.030 Limitations on distributions from the geothermal account. Distribution of funds from the geothermal account created in RCW 43.378.020 shall be subject to the following limitations:

(1) Seventy percent to the department of natural resources for geothermal exploration and assessment; and

(2) Thirty percent to Washington State University or its statutory successor for the purpose of encouraging the development of geothermal energy. [2013 c 274 § 7.]

Findings—Intent—2013 c 274: See note following RCW 78.60.030.

Chapter 43.380 RCW

WASHINGTON STATEWIDE REENTRY COUNCIL

Sections

- 43.380.005 Finding—Intent.
43.380.010 Definitions.
43.380.020 Washington statewide reentry council—Created—Executive director (*as amended by 2021 c 243*).
43.380.020 Washington statewide reentry council—Created—Executive director (*as amended by 2021 c 334*).
43.380.030 Council—Membership.
43.380.040 Council—Initial appointments—Terms—Selection committee—Cochairs.
43.380.050 Council powers and duties—Selection of executive director—Stakeholder participation—Reports.
43.380.060 Council reimbursement.
43.380.070 Meetings.
43.380.080 Performance audits.

43.380.005 Finding—Intent. The legislature finds that the cycle of recidivism warrants a closer examination of our criminal justice system, correctional systems, and community services in Washington. Over ninety-five percent of persons in prison will return to the community, and more than half of those persons will reoffend and be reincarcerated in today's system. This high rate of recidivism results in more crimes, more victims, more prisons, and more trauma within families and communities. We can do better for the people of Washington.

The legislature intends to establish the Washington statewide reentry council to develop collaborative and cooperative relationships between the criminal justice system, victims and their families, impacted individuals and their families, and service providers, with the purpose of improving public safety and outcomes for people reentering the community from incarceration. [2016 c 188 § 1.]

43.380.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Council" means the Washington statewide reentry council.

(2) "Department" means the department of commerce. [2016 c 188 § 2.]

43.380.020 Washington statewide reentry council—Created—Executive director (*as amended by 2021 c 243*). (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington statewide reentry council is created and located within the department for the purpose of promoting successful reentry of offenders after incarceration.

(2) Through the executive director that may be appointed by the council, the department shall administer the council by:

(a) Providing the council and its executive director use of the department's facilities; and

(b) Managing grants and other funds received, used, and disbursed by the council.

~~((3) Except during the 2019-2021 fiscal biennium, the department may not designate additional full-time staff to the administration of the council beyond the executive director.)) [2021 c 243 § 12; 2019 c 415 § 976; 2016 c 188 § 3.]~~

Findings—2021 c 243: See note following RCW 74.09.670.

43.380.020 Washington statewide reentry council—Created—Executive director (as amended by 2021 c 334). (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington statewide reentry council is created and located within the department for the purpose of promoting successful reentry of offenders after incarceration.

(2) Through the executive director that may be appointed by the council, the department shall administer the council by:

(a) Providing the council and its executive director use of the department's facilities; and

(b) Managing grants and other funds received, used, and disbursed by the council.

(3) Except during the 2019-2021 and 2021-2023 fiscal ~~((biennium))~~ biennia, the department may not designate additional full-time staff to the administration of the council beyond the executive director. [2021 c 334 § 984; 2019 c 415 § 976; 2016 c 188 § 3.]

Reviser's note: RCW 43.380.020 was amended twice during the 2021 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2019 c 415: See note following RCW 28B.20.476.

43.380.030 Council—Membership. (1) The council comprises fifteen members appointed by the governor.

(2) The governor must create a membership that includes:

(a)(i) Representatives of: The department of corrections; the juvenile rehabilitation administration; a statewide organization representing community and technical colleges; a statewide organization representing law enforcement interests; a statewide organization representing the interests of crime victims; a statewide organization representing prosecutors; a statewide organization representing public defenders; a statewide or local organization representing businesses and employers; housing providers; and faith-based organizations or communities;

(ii) At least two persons with experience reentering the community after incarceration; and

(iii) Two other community leaders.

(b) At least one position of the council must be reserved for an invited person with a background in tribal affairs, and such position has all of the same voting and other powers of other members.

(3) When making appointments, the governor shall consider:

(a) The racial and ethnic background of applicants in order for the membership to reflect the diversity of racial and ethnic backgrounds of all those who are incarcerated in the state;

(b) The gender of applicants in order for the membership to reflect the gender diversity of all those who are incarcerated in the state;

(c) The geographic location of all applicants in order for the membership to represent the different geographic regions of the state; and

(d) The experiences and background of all applicants relating to the incarcerated population. [2016 c 188 § 4.]

43.380.040 Council—Initial appointments—Terms—Selection committee—Cochairs. (1) The governor shall make initial appointments to the council. Initial appointments are for staggered terms from the date of appointment according to the following: Four members have four-year terms; four members have three-year terms; and five members have two-year terms. The governor shall designate the appointees who will serve the staggered terms.

(2) Except for initial appointments under subsection (1) of this section, all appointments are for two years from the date of appointment. Any member may be reappointed for additional terms. Any member of the council may be removed by the governor for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless such notice and hearing is expressly waived in writing by the affected member. In the event of a vacancy due to death, resignation, or removal, or upon the expiration of a term, the governor shall appoint a successor for the remainder of the unexpired term according to the procedures in subsection (3) of this section. Vacancies must be filled within ninety days.

(3) The council shall create a selection committee to recruit, review, and recommend future members. Prior to thirty days before the expiration of a term or within sixty days of a vacancy due to death, resignation, or removal, the selection committee shall submit a recommendation of possible appointees. The governor shall consider the recommendations of the committee when making appointments.

(4) The council shall elect cochairs from among its membership. Cochairs are elected for two-year terms from the date of election. Any former or current cochair may be reelected for an additional term. [2016 c 188 § 5.]

43.380.050 Council powers and duties—Selection of executive director—Stakeholder participation—Reports.

(1) In addition to other powers and duties prescribed in this chapter, the council is empowered to:

(a) Meet at such times and places as necessary;

(b) Advise the legislature and the governor on issues relating to reentry and reintegration of offenders;

(c) Review, study, and make policy and funding recommendations on issues directly and indirectly related to reentry and reintegration of offenders in Washington state, including, but not limited to: Correctional programming and other issues in state and local correctional facilities; housing; employment; education; treatment; and other issues contributing to recidivism;

(d) Apply for, receive, use, and leverage public and private grants as well as specifically appropriated funds to establish, manage, and promote initiatives and programs related to successful reentry and reintegration of offenders;

(e) Contract for services as it deems necessary in order to carry out initiatives and programs;

(f) Adopt policies and procedures to facilitate the orderly administration of initiatives and programs;

(g) Create committees and subcommittees of the council as is necessary for the council to conduct its business; and

(h) Create and consult with advisory groups comprising nonmembers. Advisory groups are not eligible for reimbursement under RCW 43.380.060.

(2) Subject to the availability of amounts appropriated for this specific purpose, the council may select an executive director to administer the business of the council.

(a) The council may delegate to the executive director by resolution all duties necessary to efficiently carry on the business of the council. Approval by a majority vote of the council is required for any decisions regarding employment of the executive director.

(b) The executive director may not be a member of the council while serving as executive director.

(c) Employment of the executive director must be confirmed by the senate and terminates after a term of three years. At the end of a term, the council may consider hiring the executive director for an additional three-year term or an extension of a specified period less than three years. The council may fix the compensation of the executive director.

(d) Subject to the availability of amounts appropriated for this specific purpose, the executive director shall reside in and be funded by the department.

(3) In conducting its business, the council shall solicit input and participation from stakeholders interested in reducing recidivism, promoting public safety, and improving community conditions for people reentering the community from incarceration. The council shall consult: The two largest caucuses in the house of representatives; the two largest caucuses in the senate; the governor; local governments; educators; behavioral health providers; behavioral health administrative services organizations; managed care organizations; city and county jails; the department of corrections; specialty courts; persons with expertise in evidence-based and research-based reentry practices; and persons with criminal histories and their families.

(4) The council shall submit to the governor and appropriate committees of the legislature a preliminary report of its activities and recommendations by December 1st of its first year of operation, and every two years thereafter. [2019 c 325 § 5016; 2016 c 188 § 6.]

Effective date—2019 c 325: See note following RCW 71.24.011.

43.380.060 Council reimbursement. The members of the council shall serve without compensation, but are entitled to be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [2016 c 188 § 7.]

43.380.070 Meetings. (1) Meetings of the council must be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the cochairs or when a majority of the council membership so requests. Members may participate in a meeting of the council by means of a conference telephone or similar communication equipment as described in RCW 23B.08.200.

(2) Seven members of the council constitute a quorum.

(3) Once operational, the council must convene on a regular schedule at least four times during each year. [2016 c 188 § 8.]

43.380.080 Performance audits. (1) The joint legislative audit and review committee shall conduct a performance audit of the council every six years.

(2) Each audit must include but not be limited to:

(a) A determination of the extent to which funds expended by the council or provided in biennial budget acts expressly for implementing the duties of the council have contributed toward reducing recidivism in Washington;

(b) A determination of the efficiency and effectiveness of the council, based upon the achievement of the objectives and benchmarks established by this chapter and any applicable biennial budget acts; and

(c) Any recommendations for changes to the council's performance and structure necessary to ensure or improve accountability.

(3) The council may use the audits as the basis for developing changes to its policies and programs. [2016 c 188 § 9.]

Chapter 43.382 RCW

DEVELOPMENTAL DISABILITIES OMBUDS

Sections

43.382.005	Developmental disabilities ombuds—Office creation.
43.382.010	Definitions.
43.382.020	Memoranda of agreement—Authority—Overlap with other agencies.
43.382.030	Developmental disabilities ombuds—Prohibited acts.
43.382.040	Confidentiality—Public disclosure exemption.
43.382.050	Identifying information—Disclosure.
43.382.060	Privilege—Exceptions.
43.382.070	Immunity from liability.
43.382.080	Mandatory reporting—Behavior warranting criminal or disciplinary proceedings.
43.382.090	Department of social and health services—Department of health—Duties.

43.382.005 Developmental disabilities ombuds—Office creation. (1) There is created an office of the developmental disabilities ombuds. The department of commerce shall contract with a private, independent nonprofit organization to provide developmental disability ombuds services. The department of commerce shall designate, by a competitive bidding process, the nonprofit organization that will contract to operate the ombuds. The selection process must include consultation of stakeholders in the development of the request for proposals and evaluation of bids. The selected organization must have experience and the capacity to effectively communicate regarding developmental disabilities issues with policymakers, stakeholders, and the general public and must be prepared and able to provide all program and staff support necessary, directly or through subcontracts, to carry out all duties of the office.

(2) The contracting organization and its subcontractors, if any, are not state agencies or departments, but instead are private, independent entities operating under contract with the state.

(3) The governor or state may not revoke the designation of the organization contracted to provide the services of the ombuds except upon a showing of neglect of duty, misconduct, or inability to perform duties.

(4) The department of commerce shall ensure that the ombuds staff has access to sufficient training or experience with issues relating to persons with developmental disabilities and the program and staff support necessary to enable the ombuds to effectively protect the interests of persons with developmental disabilities. The office of the developmental disabilities ombuds shall have the powers and duties to do the following:

(a) Provide information as appropriate on the rights and responsibilities of persons receiving developmental disability [disabilities] administration services or other state services, and on the procedures for providing these services;

(b) Investigate, upon its own initiative or upon receipt of a complaint, an administrative act related to a person with developmental disabilities alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds; however, the ombuds may decline to investigate any complaint;

(c) Monitor the procedures as established, implemented, and practiced by the department to carry out its responsibilities in the delivery of services to a person with developmental disabilities, with a view toward appropriate preservation of families and ensuring health and safety;

(d) Review periodically the facilities and procedures of state institutions which serve persons with developmental disabilities and state-licensed facilities or residences;

(e) Recommend changes in the procedures for addressing the needs of persons with developmental disabilities;

(f) Submit annually, by November 1st, to the governor and appropriate committees of the legislature a report analyzing the work of the office, including recommendations;

(g) Establish procedures to protect the confidentiality of records and sensitive information to ensure that the identity of any complainant or person with developmental disabilities will not be disclosed without the written consent of the complainant or person, or upon court order;

(h) Maintain independence and authority within the bounds of the duties prescribed by this chapter, insofar as this independence and authority is exercised in good faith and within the scope of contract; and

(i) Carry out such other activities as determined by the department of commerce within the scope of this chapter.

(5) The developmental disabilities ombuds must consult with stakeholders to develop a plan for future expansion of the ombuds into a model of individual ombuds services akin to the operations of the long-term care ombuds. The developmental disabilities ombuds shall report its progress and recommendations related to this subsection to the governor and appropriate committees of the legislature by November 1, 2019. [2016 c 172 § 5.]

Finding—2016 c 172: "The legislature finds and declares that the prevalence of the abuse and neglect of individuals with developmental disabilities has become an issue that negatively affects the health and well-being of such individuals. In order to address this issue, the state seeks to increase visitation of clients who are classified at the highest risk of abuse and neglect based on the assessment of risk factors by developmental disabilities administration case managers, and to create an independent office of the developmental disabilities ombuds to monitor and report on services to persons with developmental disabilities." [2016 c 172 § 1.]

43.382.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administration" means the developmental disabilities administration of the department of social and health services.

(2) "Department" means the department of social and health services.

(3) "Ombuds" means the office of the developmental disabilities ombuds. [2016 c 172 § 6.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.020 Memoranda of agreement—Authority—Overlap with other agencies. The ombuds shall collaborate and have a memoranda of agreement with the office of the state long-term care ombuds, the office of the family and children's ombuds, Washington protection and advocacy system, the mental health ombuds, and the office of the education ombuds to clarify authority in those situations where their mandates overlap. [2016 c 172 § 7.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.030 Developmental disabilities ombuds—Prohibited acts. (1) A developmental disabilities ombuds shall not have participated in the paid provision of services to any person with developmental disabilities within the past year.

(2) A developmental disabilities ombuds shall not have been employed in a governmental position with direct involvement in the licensing, certification, or regulation of a paid developmental disabilities service provider within the past year.

(3) No developmental disabilities ombuds or any member of his or her immediate family may have, or have had within the past year, any significant ownership or investment interest in a paid provider of services to persons with developmental disabilities.

(4) A developmental disabilities ombuds shall not be assigned to investigate a facility or provider of services which provides care or services to a member of that ombuds' immediate family. [2016 c 172 § 8.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.040 Confidentiality—Public disclosure exemption. The ombuds shall treat all matters under investigation, including the identities of service recipients, complainants, and individuals from whom information is acquired, as confidential, except as far as disclosures may be necessary to enable the ombuds to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Investigative records of the office of the ombuds are confidential and are exempt from public disclosure under chapter 42.56 RCW. [2016 c 172 § 9.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.050 Identifying information—Disclosure. (1) Identifying information about complainants or witnesses is not subject to any method of legal compulsion and may not be revealed to the legislature or the governor except under the following circumstances: (a) The complainant or witness waives confidentiality; (b) under a legislative subpoena when there is a legislative investigation for neglect of duty or misconduct by the ombuds or ombuds' office when the identifying information is necessary to the investigation of the ombuds' acts; or (c) under an investigation or inquiry by the governor as to neglect of duty or misconduct by the ombuds

or ombuds' office when the identifying information is necessary to the investigation of the ombuds' acts. Consistently with this section, the ombuds must act to protect sensitive client information.

(2) For the purposes of this section, "identifying information" includes the complainant's or witness's name, location, telephone number, likeness, social security number or other identification number, or identification of immediate family members. [2016 c 172 § 10.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.060 Privilege—Exceptions. The privilege described in RCW 43.382.050 does not apply when:

(1) The ombuds or ombuds' staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;

(2) The ombuds or a member of the ombuds' staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk; or

(3) The ombuds has been asked to provide general information regarding the general operation of, or the general processes employed at, the ombuds' office. [2016 c 172 § 11.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.070 Immunity from liability. (1) An employee of the office of the developmental disabilities ombuds is not liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against an employee of the department, an employee of the department of commerce, an employee of a contracting agency of the department, a provider of developmental disabilities services, or a recipient of department services for any communication made, or information given or disclosed, to aid the office of the developmental disabilities ombuds in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by an ombuds, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege serves as a defense in any action in libel or slander. [2016 c 172 § 12.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.080 Mandatory reporting—Behavior warranting criminal or disciplinary proceedings. When the ombuds or ombuds' staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ombuds or ombuds' staff member shall report the matter, or cause a report to be made, to the appropriate authorities. [2016 c 172 § 13.]

Finding—2016 c 172: See note following RCW 43.382.005.

43.382.090 Department of social and health services—Department of health—Duties. The department and the department of health shall:

(1) Allow the ombuds or the ombuds' designee to communicate privately with any person receiving services from the department, or any person who is part of a fatality or near fatality investigation involving a person with developmental disabilities, for the purposes of carrying out its duties under this chapter;

(2) Permit the ombuds or the ombuds' designee physical access to state institutions serving persons with developmental disabilities and information in the possession of the department concerning state-licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(3) Upon the ombuds' request, grant the ombuds or the ombuds' designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department or the department of health that the ombuds considers necessary in an investigation. [2016 c 172 § 14.]

Finding—2016 c 172: See note following RCW 43.382.005.

Chapter 43.384 RCW TOURISM MARKETING AUTHORITY

Sections

43.384.010	Definitions.
43.384.020	Established—Duties—Administrative assistance.
43.384.030	Board of directors—Membership—Advisory committee—Procedures.
43.384.040	Statewide tourism marketing account—Matching funds.
43.384.050	Use of funds.
43.384.060	Receipt of gifts, grants authorized.
43.384.800	Evaluation by joint legislative audit and review committee.
43.384.900	Findings—Purpose—2018 c 275.
43.384.901	Short title.

43.384.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington tourism marketing authority created in RCW 43.384.020.

(2) "Board" means the Washington tourism marketing authority board of directors.

(3) "Department" means the department of commerce.

(4) "Director" means the director of the department of commerce.

(5) "Statewide tourism marketing account" means the account created pursuant to RCW 43.384.040. [2018 c 275 § 2.]

43.384.020 Established—Duties—Administrative assistance. (1) The Washington tourism marketing authority is established as a public body constituting an instrumentality of the state of Washington.

(2) The authority is responsible for contracting for statewide tourism marketing services that promote tourism on behalf of the citizens of the state, and for managing the authority's financial resources.

(3) The department provides administrative assistance to the authority and serves as the fiscal agent of the authority for moneys appropriated for purposes of the authority.

(4) The authority must create a private local account to receive nonstate funds and state funds, other than general fund state funds, contributed to the authority for purposes of this chapter. [2018 c 275 § 3.]

43.384.030 Board of directors—Membership—Advisory committee—Procedures. (1) The authority must be governed by a board of directors. The board of directors must consist of:

(a) Two members and two alternates from the house of representatives, with one member and one alternate appointed from each of the two major caucuses of the house of representatives by the speaker of the house of representatives;

(b) Two members and two alternates from the senate, with one member and one alternate appointed from each of the two major caucuses of the senate by the president of the senate; and

(c) Nine representatives with expertise in the tourism industry and related businesses including, but not limited to, hotel, restaurant, outdoor recreation, attractions, retail, and rental car businesses appointed by the governor.

(2) The initial membership of the authority must be appointed as follows:

(a) By May 1, 2018, the speaker of the house of representatives and the president of the senate must each submit to the governor a list of ten nominees who are not legislators or employees of the state or its political subdivisions, with no caucus submitting the same nominee;

(b) The nominations from the speaker of the house of representatives must include at least one representative from the restaurant industry; one representative from the rental car industry; and one representative from the retail industry;

(c) The nominations from the president of the senate must include at least one representative from the hotel industry; one representative from the attractions industry; and one representative from the outdoor recreation industry; and

(d) The remaining member appointed by the governor must have a demonstrated expertise in the tourism industry.

(3) By July 1, 2018, the governor must appoint four members from each list submitted by the speaker of the house of representatives and the president of the senate under subsection (2)(a) through (c) of this section and one member under subsection (2)(d) of this section. Appointments by the governor must reflect diversity in geography, size of business, gender, and ethnicity. No county may have more than two appointments and no city may have more than one appointment.

(4) There must be a nonvoting advisory committee to the board. The advisory committee must consist of:

(a) One ex officio representative from the department, state parks and recreation commission, department of transportation, and other state agencies as the authority deems appropriate; and

(b) One member from a federally recognized Indian tribe appointed by the director of the department.

(5) The initial appointments under subsections (1) and (2) of this section must be appointed by the governor to terms as follows: Four members for two-year terms; four members for three-year terms; and five members for four-year terms, which must include the chair. After the initial appointments, all appointments must be for four years.

(6) The board must select from its membership the chair of the board and such other officers as it deems appropriate. The chair of the board must be a member from the tourism industry or related businesses.

(7) A majority of the board constitutes a quorum.

(8) The board must create its own bylaws in accordance with the laws of the state of Washington.

(9) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless the notice and hearing are expressly waived in writing by the affected member.

(10) If a vacancy occurs on the board, a replacement must be appointed for the unexpired term.

(11) The members of the board serve without compensation but are entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties.

(12) The board must meet at least quarterly.

(13) No board member of the authority may serve on the board of an organization that could be considered for a contract authorized under RCW 43.384.050. [2018 c 275 § 4.]

43.384.040 Statewide tourism marketing account—Matching funds. The statewide tourism marketing account is created in the state treasury. All receipts from tax revenues under RCW 82.08.225 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenditures of the department that are related to implementation of a statewide tourism marketing program and operation of the authority. A two-to-one nonstate or state fund, other than general fund state, match must be provided for all expenditures from the account. A match may consist of nonstate or state fund, other than general fund state, cash contributions deposited in the private local account created under RCW 43.384.020(4), the value of an advertising equivalency contribution, or an in-kind contribution. The board must determine criteria for what qualifies as an in-kind contribution. [2018 c 275 § 5.]

43.384.050 Use of funds. (1) From amounts appropriated to the department for the authority and from other moneys available to it, the authority may incur expenditures for any purpose specifically authorized by this chapter including:

(a) Entering into a contract for a multiple year statewide tourism marketing plan with a statewide nonprofit organization existing on June 7, 2018, whose sole purpose is marketing Washington to tourists. The marketing plan must include, but is not limited to, focuses on rural tourism-dependent counties, natural wonders and outdoor recreation opportunities of the state, including sustainable whale watching, attraction of international tourists, identification of local offerings for tourists, and assistance for tourism areas adversely impacted by natural disasters. In the event that no such organization exists on June 7, 2018, or the initial contractor ceases to exist, the authority may determine criteria for a contractor to carry out a statewide marketing program;

(b) Contracting for the evaluation of the impact of the statewide tourism marketing program; and

(c) Paying for administrative expenses of the authority, which may not exceed two percent of the state portion of funds collected in any fiscal year.

(2) All nonstate moneys received by the authority under RCW 43.384.060 or otherwise provided to the authority for purposes of matching funding must be deposited in the

authority's private local account created under RCW 43.384.020(4) and are held in trust for uses authorized solely by this chapter.

(3) "Sustainable whale watching" means an experience that includes whale watching from land or aboard a vessel that reduces the impact on whales, provides a recreational and educational experience, and motivates participants to care about marine mammals, the sea, and marine conservation. [2019 c 291 § 5; 2018 c 275 § 6.]

43.384.060 Receipt of gifts, grants authorized. The board may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the authority and spend gift, grants, or endowments or income from public or private sources according to their terms, unless the receipt of gifts, grants, or endowments violates RCW 42.17A.560. [2018 c 275 § 7.]

43.384.800 Evaluation by joint legislative audit and review committee. The joint legislative audit and review committee must conduct an evaluation of the performance of the authority created in chapter 43.384 RCW and report its findings and recommendations, in compliance with RCW 43.01.036, to the governor and the economic development committees of the senate and house of representatives by December 1, 2023. The purpose of the evaluation is to determine the extent to which the authority has contributed to the growth of the tourism industry and economic development of the state. An interim report by the authority, submitted in compliance with RCW 43.01.036, is due to the governor and economic development committees of the house of representatives and senate by December 1, 2021. The report must provide an update on the authority's progress in implementing a statewide tourism marketing program. [2018 c 275 § 11.]

43.384.900 Findings—Purpose—2018 c 275. (1) The legislature finds that the tourism industry is the fourth largest economic sector in the state of Washington and provides general economic benefit to the state. Since 2011 there have been minimal general funds committed to statewide tourism marketing and Washington is the only state without a state-funded tourism marketing program. Before 2011, the amount of funds appropriated to statewide tourism marketing was not significant and, in fact, Washington ranked forty-eighth in state tourism funding. Washington has significant attractions and activities for tourists, including many natural outdoor assets that draw visitors to mountains, waterways, parks, and open spaces. There should be a program to publicize these assets and activities to potential out-of-state visitors that is implemented in an expeditious manner by tourism professionals in the private sector.

(2) The purpose of chapter 275, Laws of 2018 is to establish the framework and funding for a statewide tourism marketing program. The program needs to have a structure that includes significant, stable, long-term funding, and it should be implemented and managed by the tourism industry. The source of funds should be from major sectors of the tourism industry with government assistance in collecting these funds and providing accountability for their expenditure. The dedicated sales tax authorized for contributions made in this

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chapter will bring direct benefits to those making contributions by bringing more tourists into the state who will patronize the participating businesses and create economic benefit for the state. [2018 c 275 § 1.]

43.384.901 Short title. This chapter may be known and cited as the statewide tourism marketing act. [2018 c 275 § 8.]

Chapter 43.386 RCW FACIAL RECOGNITION

Sections

43.386.010	Definitions.
43.386.020	Notice of intent—Accountability report.
43.386.030	Meaningful human review—When required.
43.386.040	Testing—When required.
43.386.050	Performance differences across subpopulations—Testing and mitigation.
43.386.060	Training.
43.386.070	Disclosure to criminal defendants—Retention of records—Reporting of surveillance warrants.
43.386.080	Use for surveillance, real-time identification, or persistent tracking—When permitted—Restrictions on law enforcement use.
43.386.090	Exemption—Federal regulations and orders—Airports and seaports.
43.386.100	Exemption—Department of licensing—Drivers' licenses, permits, and identicards.
43.386.900	Findings—2020 c 257.
43.386.901	Effective date—2020 c 257.

43.386.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accountability report" means a report developed in accordance with RCW 43.386.020.

(2) "Enroll," "enrolled," or "enrolling" means the process by which a facial recognition service creates a facial template from one or more images of an individual and adds the facial template to a gallery used by the facial recognition service for recognition or persistent tracking of individuals. It also includes the act of adding an existing facial template directly into a gallery used by a facial recognition service.

(3)(a) "Facial recognition service" means technology that analyzes facial features and is used by a state or local government agency for the identification, verification, or persistent tracking of individuals in still or video images.

(b) "Facial recognition service" does not include: (i) The analysis of facial features to grant or deny access to an electronic device; or (ii) the use of an automated or semiautomated process for the purpose of redacting a recording for release or disclosure outside the law enforcement agency to protect the privacy of a subject depicted in the recording, if the process does not generate or result in the retention of any biometric data or surveillance information.

(4) "Facial template" means the machine-interpretable pattern of facial features that is extracted from one or more images of an individual by a facial recognition service.

(5) "Identification" means the use of a facial recognition service by a state or local government agency to determine whether an unknown individual matches any individual whose identity is known to the state or local government agency and who has been enrolled by reference to that identity in a gallery used by the facial recognition service.

(6) "Legislative authority" means the respective city, county, or other local governmental agency's council, commission, or other body in which legislative powers are vested. For a port district, the legislative authority refers to the port district's port commission. For an airport established pursuant to chapter 14.08 RCW and operated by a board, the legislative authority refers to the airport's board. For a state agency, "legislative authority" refers to the technology services board created in RCW 43.105.285.

(7) "Meaningful human review" means review or oversight by one or more individuals who are trained in accordance with RCW 43.386.060 and who have the authority to alter the decision under review.

(8) "Nonidentifying demographic data" means data that is not linked or reasonably linkable to an identified or identifiable individual, and includes, at a minimum, information about gender, race or ethnicity, age, and location.

(9) "Ongoing surveillance" means using a facial recognition service to track the physical movements of a specified individual through one or more public places over time, whether in real time or through application of a facial recognition service to historical records. It does not include a single recognition or attempted recognition of an individual, if no attempt is made to subsequently track that individual's movement over time after they have been recognized.

(10) "Persistent tracking" means the use of a facial recognition service by a state or local government agency to track the movements of an individual on a persistent basis without identification or verification of that individual. Such tracking becomes persistent as soon as:

(a) The facial template that permits the tracking is maintained for more than forty-eight hours after first enrolling that template; or

(b) Data created by the facial recognition service is linked to any other data such that the individual who has been tracked is identified or identifiable.

(11) "Recognition" means the use of a facial recognition service by a state or local government agency to determine whether an unknown individual matches:

(a) Any individual who has been enrolled in a gallery used by the facial recognition service; or

(b) A specific individual who has been enrolled in a gallery used by the facial recognition service.

(12) "Verification" means the use of a facial recognition service by a state or local government agency to determine whether an individual is a specific individual whose identity is known to the state or local government agency and who has been enrolled by reference to that identity in a gallery used by the facial recognition service. [2020 c 257 § 2.]

43.386.020 Notice of intent—Accountability report.

(1) A state or local government agency using or intending to develop, procure, or use a facial recognition service must file with a legislative authority a notice of intent to develop, procure, or use a facial recognition service and specify a purpose for which the technology is to be used. A state or local government agency may commence the accountability report once it files the notice of intent by the legislative authority.

(2) Prior to developing, procuring, or using a facial recognition service, a state or local government agency must produce an accountability report for that service. Each

accountability report must include, at minimum, clear and understandable statements of the following:

(a)(i) The name of the facial recognition service, vendor, and version; and (ii) a description of its general capabilities and limitations, including reasonably foreseeable capabilities outside the scope of the proposed use of the agency;

(b)(i) The type or types of data inputs that the technology uses; (ii) how that data is generated, collected, and processed; and (iii) the type or types of data the system is reasonably likely to generate;

(c)(i) A description of the purpose and proposed use of the facial recognition service, including what decision or decisions will be used to make or support it; (ii) whether it is a final or support decision system; and (iii) its intended benefits, including any data or research demonstrating those benefits;

(d) A clear use and data management policy, including protocols for the following:

(i) How and when the facial recognition service will be deployed or used and by whom including, but not limited to, the factors that will be used to determine where, when, and how the technology is deployed, and other relevant information, such as whether the technology will be operated continuously or used only under specific circumstances. If the facial recognition service will be operated or used by another entity on the agency's behalf, the facial recognition service accountability report must explicitly include a description of the other entity's access and any applicable protocols;

(ii) Any measures taken to minimize inadvertent collection of additional data beyond the amount necessary for the specific purpose or purposes for which the facial recognition service will be used;

(iii) Data integrity and retention policies applicable to the data collected using the facial recognition service, including how the agency will maintain and update records used in connection with the service, how long the agency will keep the data, and the processes by which data will be deleted;

(iv) Any additional rules that will govern use of the facial recognition service and what processes will be required prior to each use of the facial recognition service;

(v) Data security measures applicable to the facial recognition service including how data collected using the facial recognition service will be securely stored and accessed, if and why an agency intends to share access to the facial recognition service or the data from that facial recognition service with any other entity, and the rules and procedures by which an agency sharing data with any other entity will ensure that such entities comply with the sharing agency's use and data management policy as part of the data-sharing agreement;

(vi) How the facial recognition service provider intends to fulfill security breach notification requirements pursuant to chapter 19.255 RCW and how the agency intends to fulfill security breach notification requirements pursuant to RCW 42.56.590; and

(vii) The agency's training procedures, including those implemented in accordance with RCW 43.386.060, and how the agency will ensure that all personnel who operate the facial recognition service or access its data are knowledgeable about and able to ensure compliance with the use and data management policy prior to use of the facial recognition service;

(e) The agency's testing procedures, including its processes for periodically undertaking operational tests of the facial recognition service in accordance with RCW 43.386.040;

(f) Information on the facial recognition service's rate of false matches, potential impacts on protected subpopulations, and how the agency will address error rates, determined independently, greater than one percent;

(g) A description of any potential impacts of the facial recognition service on civil rights and liberties, including potential impacts to privacy and potential disparate impacts on marginalized communities, and the specific steps the agency will take to mitigate the potential impacts and prevent unauthorized use of the facial recognition service; and

(h) The agency's procedures for receiving feedback, including the channels for receiving feedback from individuals affected by the use of the facial recognition service and from the community at large, as well as the procedures for responding to feedback.

(3) Prior to finalizing the accountability report, the agency must:

(a) Allow for a public review and comment period;

(b) Hold at least three community consultation meetings; and

(c) Consider the issues raised by the public through the public review and comment period and the community consultation meetings.

(4) The final accountability report must be updated every two years and submitted to a legislative authority.

(5) The final adopted accountability report must be clearly communicated to the public at least ninety days prior to the agency putting the facial recognition service into operational use, posted on the agency's public website, and submitted to a legislative authority. The legislative authority must post each submitted accountability report on its public website.

(6) A state or local government agency seeking to procure a facial recognition service must require vendors to disclose any complaints or reports of bias regarding the service.

(7) An agency seeking to use a facial recognition service for a purpose not disclosed in the agency's existing accountability report must first seek public comment and community consultation on the proposed new use and adopt an updated accountability report pursuant to the requirements contained in this section.

(8) This section does not apply to a facial recognition service under contract as of July 1, 2021. An agency must fulfill the requirements of this section upon renewal or extension of the contract. [2020 c 257 § 3.]

43.386.030 Meaningful human review—When required. A state or local government agency using a facial recognition service to make decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals must ensure that those decisions are subject to meaningful human review. Decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals means decisions that result in the provision or denial of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to

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basic necessities such as food and water, or that impact civil rights of individuals. [2020 c 257 § 4.]

43.386.040 Testing—When required. Prior to deploying a facial recognition service in the context in which it will be used, a state or local government agency using a facial recognition service to make decisions that produce legal effects on individuals or similarly significant effects on individuals must test the facial recognition service in operational conditions. An agency must take reasonable steps to ensure best quality results by following all guidance provided by the developer of the facial recognition service. [2020 c 257 § 5.]

43.386.050 Performance differences across subpopulations—Testing and mitigation. (1)(a) A state or local government agency that deploys a facial recognition service must require a facial recognition service provider to make available an application programming interface or other technical capability, chosen by the provider, to enable legitimate, independent, and reasonable tests of those facial recognition services for accuracy and unfair performance differences across distinct subpopulations. Such subpopulations are defined by visually detectable characteristics such as: (i) Race, skin tone, ethnicity, gender, age, or disability status; or (ii) other protected characteristics that are objectively determinable or self-identified by the individuals portrayed in the testing data set. If the results of the independent testing identify material unfair performance differences across subpopulations, the provider must develop and implement a plan to mitigate the identified performance differences within ninety days of receipt of such results. For purposes of mitigating the identified performance differences, the methodology and data used in the independent testing must be disclosed to the provider in a manner that allows full reproduction.

(b) Making an application programming interface or other technical capability does not require providers to do so in a manner that would increase the risk of cyberattacks or to disclose proprietary data. Providers bear the burden of minimizing these risks when making an application programming interface or other technical capability available for testing.

(2) Nothing in this section requires a state or local government agency to collect or provide data to a facial recognition service provider to satisfy the requirements in subsection (1) of this section. [2020 c 257 § 6.]

43.386.060 Training. A state or local government agency using a facial recognition service must conduct periodic training of all individuals who operate a facial recognition service or who process personal data obtained from the use of a facial recognition service. The training must include, but not be limited to, coverage of:

(1) The capabilities and limitations of the facial recognition service;

(2) Procedures to interpret and act on the output of the facial recognition service; and

(3) To the extent applicable to the deployment context, the meaningful human review requirement for decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals. [2020 c 257 § 7.]

43.386.070 Disclosure to criminal defendants—Retention of records—Reporting of surveillance warrants. (1) A state or local government agency must disclose their use of a facial recognition service on a criminal defendant to that defendant in a timely manner prior to trial.

(2) A state or local government agency using a facial recognition service shall maintain records of its use of the service that are sufficient to facilitate public reporting and auditing of compliance with the agency's facial recognition policies.

(3) In January of each year, any judge who has issued a warrant for the use of a facial recognition service to engage in any surveillance, or an extension thereof, as described in RCW 43.386.080, that expired during the preceding year, or who has denied approval of such a warrant during that year shall report to the administrator for the courts:

- (a) The fact that a warrant or extension was applied for;
- (b) The fact that the warrant or extension was granted as applied for, was modified, or was denied;
- (c) The period of surveillance authorized by the warrant and the number and duration of any extensions of the warrant;
- (d) The identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and
- (e) The nature of the public spaces where the surveillance was conducted.

(4) In January of each year, any state or local government agency that has applied for a warrant, or an extension thereof, for the use of a facial recognition service to engage in any surveillance as described in RCW 43.386.080 shall provide to a legislative authority a report summarizing nonidentifying demographic data of individuals named in warrant applications as subjects of surveillance with the use of a facial recognition service. [2020 c 257 § 8.]

43.386.080 Use for surveillance, real-time identification, or persistent tracking—When permitted—Restrictions on law enforcement use. (1) A state or local government agency may not use a facial recognition service to engage in ongoing surveillance, conduct real-time or near real-time identification, or start persistent tracking unless:

- (a) A warrant is obtained authorizing the use of the service for those purposes;
- (b) Exigent circumstances exist; or
- (c) A court order is obtained authorizing the use of the service for the sole purpose of locating or identifying a missing person, or identifying a deceased person. A court may issue an ex parte order under this subsection (1)(c) if a law enforcement officer certifies and the court finds that the information likely to be obtained is relevant to locating or identifying a missing person, or identifying a deceased person.

(2) A state or local government agency may not apply a facial recognition service to any individual based on their religious, political, or social views or activities, participation in a particular noncriminal organization or lawful event, or actual or perceived race, ethnicity, citizenship, place of origin, immigration status, age, disability, gender, gender identity, sexual orientation, or other characteristic protected by

law. This subsection does not condone profiling including, but not limited to, predictive law enforcement tools.

(3) A state or local government agency may not use a facial recognition service to create a record describing any individual's exercise of rights guaranteed by the First Amendment of the United States Constitution and by Article I, section 5 of the state Constitution.

(4) A law enforcement agency that utilizes body worn camera recordings shall comply with the provisions of RCW 42.56.240(14).

(5) A state or local law enforcement agency may not use the results of a facial recognition service as the sole basis to establish probable cause in a criminal investigation. The results of a facial recognition service may be used in conjunction with other information and evidence lawfully obtained by a law enforcement officer to establish probable cause in a criminal investigation.

(6) A state or local law enforcement agency may not use a facial recognition service to identify an individual based on a sketch or other manually produced image.

(7) A state or local law enforcement agency may not substantively manipulate an image for use in a facial recognition service in a manner not consistent with the facial recognition service provider's intended use and training. [2020 c 257 § 11.]

43.386.090 Exemption—Federal regulations and orders—Airports and seaports. (1) This chapter does not apply to a state or local government agency that: (a) Is mandated to use a specific facial recognition service pursuant to a federal regulation or order, or that are undertaken through partnership with a federal agency to fulfill a congressional mandate; or (b) uses a facial recognition service in association with a federal agency to verify the identity of individuals presenting themselves for travel at an airport or seaport.

(2) A state or local government agency must report to a legislative authority the use of a facial recognition service pursuant to subsection (1) of this section. [2020 c 257 § 9.]

43.386.100 Exemption—Department of licensing—Drivers' licenses, permits, and identicards. Nothing in this chapter applies to the use of a facial recognition matching system by the department of licensing pursuant to RCW 46.20.037. [2020 c 257 § 12.]

43.386.900 Findings—2020 c 257. The legislature finds that:

(1) Unconstrained use of facial recognition services by state and local government agencies poses broad social ramifications that should be considered and addressed. Accordingly, legislation is required to establish safeguards that will allow state and local government agencies to use facial recognition services in a manner that benefits society while prohibiting uses that threaten our democratic freedoms and put our civil liberties at risk.

(2) However, state and local government agencies may use facial recognition services to locate or identify missing persons, and identify deceased persons, including missing or murdered indigenous women, subjects of Amber alerts and silver alerts, and other possible crime victims, for the purposes of keeping the public safe. [2020 c 257 § 1.]

43.386.901 Effective date—2020 c 257. Sections 1 through 9 and 11 through 13 of this act take effect July 1, 2021. [2020 c 257 § 14.]

Chapter 43.388 RCW

WASHINGTON STATE LEADERSHIP BOARD

Sections

43.388.010	Creation.
43.388.020	Washington state leadership board account—Washington state leadership board special license plate account.
43.388.030	Use of state flag.
43.388.040	Sports mentoring program.

43.388.010 Creation. (1) The Washington state leadership board is designated a trustee for the state of Washington.

(2) The purpose of the Washington state leadership board is to:

(a) Provide the state a means of extending formal recognition for an individual's outstanding services to the state; and

(b) Expand educational, sports, leadership, and/or employment opportunities for youth, veterans, and people with disabilities in Washington state by administering the following programs:

- (i) Washington world fellows;
- (ii) Sports mentoring;
- (iii) Boundless Washington; and
- (iv) Compassion scholars.

(3) The Washington state leadership board may conduct activities in support of their mission.

(4)(a) The Washington state leadership board is governed by a board of directors. The board of directors is composed of the governor, the lieutenant governor, and the secretary of state, who serve as ex officio, nonvoting members, and other officers and members as the Washington state leadership board designates. In addition, four legislators may be appointed to the board of directors as ex officio members in the following manner: One legislator from each of the two largest caucuses of the senate, appointed by the president of the senate, and one legislator from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives.

(b) The Washington state leadership board shall appoint its executive director with the consent of the lieutenant governor. The lieutenant governor may remove an executive director for cause if a majority of the Washington state leadership board votes for removal.

(5) The board of directors shall adopt bylaws and establish governance and transparency policies.

(6) The lieutenant governor's office may provide facilities and administrative support for the Washington state leadership board, where the work of the board aligns with the mission of the office. Assistance from the lieutenant governor's office may include, but is not limited to:

(a) Collaboration with the Washington state leadership board on the Washington world fellows program, a college readiness and study abroad fellowship;

(b) Collaboration with the Washington state leadership board to administer the sports mentoring program as established under RCW 43.388.040, a mentoring program to encourage underserved youth to join sports or otherwise participate in the area of sports. If approved by the board of

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directors, boundless Washington, an outdoor leadership program for young people with disabilities, shall satisfy the terms of the sports mentoring program; and

(c) The compilation of a yearly financial report, which shall be made available to the appropriate committees of the legislature no later than January 15th of each year, detailing all revenues and expenditures associated with the Washington world fellows program and the sports mentoring program.

(7) The legislature may make appropriations in support of the Washington state leadership board subject to the availability of funds.

(8) The Washington state leadership board must post on its website detailed information on all funds received by the board and all expenditures by the board. [2022 c 96 § 2; 2021 c 176 § 5222; 2020 c 114 § 18; 2018 c 67 § 1; 2005 c 69 § 1. Formerly RCW 43.15.030, 43.342.010.]

Findings—2022 c 96: "The legislature finds that:

(1) The Washington state leadership board has been a nonprofit organization with significant, vested interest in the improvement of Washington state through their service and dedication to marginalized students and their ability to bestow honors on behalf of the state.

(2) There has been a lack of substantive extracurricular activities for historically marginalized students in Washington state to be involved in, and the Washington state leadership board has created equitable and accessible programs for marginalized students to succeed. The Washington state leadership board bridges the gap between student accessibility and student achievement by utilizing public and private funds to create three unique programs for marginalized students: The Washington world fellows program, boundless Washington program, and compassion scholars program.

(3) The Washington world fellows program is a global leadership development program that provides students who may lack access with training that enhances high school academics, supports their trajectory into college, and establishes strong leadership traits. The program includes college preparation through research, mentoring, and preparation for college entrance exams, including the opportunity for students to participate in a global leadership exchange experience.

(4) The boundless Washington program provides an opportunity for students with physical and sensory disabilities to develop leadership skills through the outdoors. Students with physical and sensory disabilities explore the outdoors through immersive excursions that students learn about through online curriculum and practice through outdoor activities with peers.

(5) The compassion scholars program creates life-changing compassion scholars' excursions, with a delegation that includes students, elected officials, and community leaders, that focus on highlighting for high school students the positive work of public servants that have dedicated themselves to improving their community.

(6) The Washington state leadership board has bestowed honors like the Washingtonian of the year and the organization of the year on behalf of the state for over 45 years." [2022 c 96 § 1.]

Effective date—2022 c 96: "This act takes effect July 1, 2022." [2022 c 96 § 10.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

Effective date—2020 c 114: See note following RCW 28A.175.075.

43.388.020 Washington state leadership board account—Washington state leadership board special license plate account. (1) The Washington state leadership board account is created in the state treasury. All receipts from appropriations must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of this chapter.

(2)(a) The Washington state leadership board special license plate account is created in the custody of the state treasurer. All receipts from special license plate disposition under RCW 46.68.420 must be deposited into the account. Expenditures from the account may be used only for the pur-

poses of this chapter. Only the executive director of the Washington state leadership board or the executive director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(b) The Washington state leadership board special license plate account may accept gifts, grants, or endowments from public and private sources that are made in trust or otherwise for the use and benefit of the purposes of this chapter. [2022 c 96 § 3.]

Findings—Effective date—2022 c 96: See notes following RCW 43.388.010.

43.388.030 Use of state flag. The Washington state leadership board may use the image of the Washington state flag to promote the mission of the organization as set forth under *RCW 43.15.030. The board retains any revenue generated by the use of the image, when the usage is consistent with the purposes under *RCW 43.15.030. [2020 c 114 § 19; 2005 c 69 § 2. Formerly RCW 43.15.040, 43.342.020.]

***Reviser's note:** RCW 43.15.030 was recodified as RCW 43.388.010 pursuant to 2022 c 96 § 8.

Effective date—2020 c 114: See note following RCW 28A.175.075.

43.388.040 Sports mentoring program. (1) The sports mentoring program is established to enable eligible nonprofit community-based organizations to provide opportunities for underserved youth to join sports teams or otherwise participate in the area of sports. The goal of the program is to support youth in building self-confidence, developing skills in the areas of goal setting and collaboration, and promoting a healthy lifestyle through forming positive relationships with peers and family, avoiding risky or delinquent behavior, and achieving educational success. Proceeds from the Seattle Mariners special license plate, issued under RCW 46.18.200, must be deposited into the Seattle Mariners account in accordance with RCW 46.68.420. Funds in the account may only be used, except as provided under RCW 46.68.420(6), for grants to support youth to stay in school, participate in sports, and receive mentorships.

(2) The Washington state leadership board may issue competitive grants to eligible organizations. The following criteria must be used to prioritize applications:

(a) Services provided by the organization to program participants are provided without a fee;

(b) Eligible organizations must assist children with enrolling in sports through their parents, guardians, or coach; and

(c) Eligible organizations must provide professional staff support to the mentor, child, and parent.

(3) Eligible organizations must meet the following requirements:

(a) Be a 501(c)(3) nonprofit organization;

(b) Conduct national criminal background checks for all employees and volunteer mentors who work with children;

(c) Have adopted standards for care including staff training, health and safety standards, and mechanisms for assessing and enforcing the program's compliance with the standards adopted;

(d) Ensure that sixty percent or more of the children they serve are eligible for free or reduced-price lunch;

(e) Provide free, direct services to children through volunteer mentoring; and

(f) Provide professional oversight of all mentoring relationships for each child served. [2022 c 96 § 7; 2018 c 67 § 3. Formerly RCW 43.15.100.]

Findings—Effective date—2022 c 96: See notes following RCW 43.388.010.

Effective date—2018 c 67 §§ 3-8: "Sections 3 through 8 of this act take effect January 1, 2019." [2018 c 67 § 9.]

Chapter 43.390 RCW

EQUITABLE ACCESS TO CREDIT PROGRAM

Sections

43.390.010 Short title.

43.390.020 Equitable access to credit program.

43.390.030 Equitable access to credit program account.

43.390.010 Short title. This chapter may be known and cited as the Washington equitable access to credit act. [2022 c 189 § 1.]

43.390.020 Equitable access to credit program. (1) Subject to appropriation, the department of commerce shall create and operate the equitable access to credit program. The purpose of the equitable access to credit program is to award grants to qualified lending institutions, using funds generated by business and occupation tax credits created in RCW 82.04.4499, for the purpose of providing access to credit for historically underserved communities. The equitable access to credit program must be governed by the provisions of this chapter and by any guidelines developed and rules adopted by the department of commerce pursuant to this chapter.

(2) The following requirements apply to the operation of the equitable access to credit program:

(a) No more than 25 percent of all grants awarded in any calendar year may be awarded to the same grant recipient;

(b) Up to 20 percent of an individual grant award may be used by the grant recipient to fund a loan loss reserve, technical assistance, and/or small business training programs;

(c) At least 65 percent of the value of all grants awarded in any calendar year must be provided for native community development financial institution grantees or grantees to provide services or invest, or both, in rural counties as defined in RCW 82.14.370; and

(d) Beginning in fiscal year 2022, up to five percent of the program revenues may be used for all agencies' staffing and other administrative costs related to the implementation of chapter 189, Laws of 2022. In the event that the statewide limit in RCW 82.04.4499(3) is not reached, the percentage used for administration may be increased as necessary to maintain normal staffing operations, not to exceed 10 percent.

(3) In order to receive a grant award under the equitable access to credit program, a qualified lending institution must:

(a) Be recognized by the United States department of the treasury as:

(i) An emerging community development financial institution; or

(ii) A certified community development financial institution;

(b) Match any grant awarded by the equitable access to credit program on:

(i) At least a five percent basis, if the institution is recognized by the United States department of the treasury as an emerging community development financial institution;

(ii) At least a 10 percent basis, if the institution:

(A) Is recognized by the United States department of the treasury as a certified community development financial institution; and

(B) Has net assets of fewer than \$3,000,000 at the time of the grant application; or

(iii) At least a 25 percent basis, if the institution:

(A) Is recognized by the United States department of the treasury as a certified emerging community development financial institution; and

(B) Has net assets of \$3,000,000 or more at the time of the grant application;

(c) Be registered as a nonprofit organization exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of June 9, 2022; and

(d) Demonstrate a history of lending in Washington.

(4) The director must appoint members to an advisory board that will assist the department in ranking applications for the grants. The department is encouraged to seek representation from members with relevant expertise, including those from the banking industry familiar with community development financial institutions, rural economic development professionals, local government representatives, and representatives from federally recognized Indian tribes. The department shall seek, to the greatest extent possible, a fair geographic balance.

(5)(a) The following criteria must be considered in ranking applications:

(i) The number and total value of loans and investments closed during the previous five-year period by the qualified lending institution in Washington and the percentage of those loans and investments that went to historically underserved communities;

(ii) Funds leveraged by the proposed grant award, which may be no less than 25 percent for certified community development financial institutions with net assets of \$3,000,000 or more at the time of the grant application;

(iii) Projected loan or investment production with the award over the performance period of the grant;

(iv) How the award supports the growth of the qualified lending institution;

(v) Past performance of loans and investments made by the qualified lending institution including, where applicable, past performance of loans and investments made using funds from the equitable access to credit program; and

(vi) Awards to a diversity of qualified lending institution awardees, including institutions of different sizes or with different target markets or products, access to historically underserved communities, or other differentiators that ensure a broad-base access to capital.

(b) The department may also include such additional criteria as it deems helpful in achieving the goal of ensuring access to credit to underserved communities across the state.

(6) Grants may be awarded from the equitable access to credit program beginning six months after the first tax credits are claimed pursuant to RCW 82.04.4499. Grant awards must cease from the equitable access to credit program upon the expiration of this chapter.

(7) No loan or investment made by a qualified lending institution using funds awarded from the equitable access to credit program may have an interest rate that exceeds 200 basis points above the Wall Street Journal prime rate when the loan or investment is made.

(8) Once a loan or investment made by a qualified lending institution using funds awarded from the equitable access to credit program has been repaid, the qualified lending institution must reloan the repaid funds consistent with the terms of this chapter.

(9) A qualified lending institution that receives funds from the equitable access to credit program must submit a report to the department of commerce by June 30th of each year that contains the following information:

(a) A list of loans and investments made using funds from the equitable access to credit program's grant and associated match, including, on a per-borrower or per-investee basis:

(i) The date the loan or investment was originated;

(ii) The amount of the loan or investment;

(iii) The total cost of the project, including owner equity and leverage;

(iv) The interest rate and interest type;

(v) The Wall Street Journal prime rate at the time the loan or investment is made;

(vi) The term;

(vii) The number of permanent full-time equivalent jobs projected to be created in the business due to this financing;

(viii) Whether the loan or investment utilized a guarantee program;

(ix) The North American industry classification system code;

(x) The entity structure;

(xi) Whether the investee or borrower is more than 50 percent owned or controlled by:

(A) One or more minorities;

(B) One or more women; or

(C) One or more low-income persons;

(xii) The race of the primary investee(s) or borrower(s);

(xiii) Whether the primary investee or borrower is Hispanic or Latino; and

(xiv) The location, by city and county, in which funds from the program will be invested;

(b) Certification that each loan or investment made using funds from the program was to a historically underserved community; and

(c) Other information as required by the department of commerce.

(10) No later than September 15th of each year, beginning in 2022, the department of commerce must submit a report to the appropriate committees of the legislature that contains the following information:

(a) The list of grant applicants, total value of grants requested, and the location of each applicant;

(b) The list of grant recipients, total amount of awards, and required match amounts; and

(c) On an aggregate basis, information on loans and investments as reported under subsection (9) of this section.

(11) The department may contract for all or part of the administration of this section.

(12) The department may adopt rules as necessary to implement this section. [2022 c 189 § 3.]

43.390.030 Equitable access to credit program account. The equitable access to credit program account is created in the custody of the state treasurer. All receipts from contributions to the equitable access to credit program created by this chapter must be deposited in the account. Expenditures from the account may be used only for the award of grants to qualified lending institutions from the equitable access to credit program and administrative costs pursuant to RCW 43.390.020. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Any funds remaining in the account upon the expiration of this chapter must be transferred to the state general fund. [2022 c 189 § 4.]

Chapter 43.392 RCW INTERAGENCY ELECTRIC VEHICLE COORDINATING COUNCIL

Sections

43.392.010	Findings—Intent.
43.392.020	Target established—Scoping plan.
43.392.030	Interagency electric vehicle coordinating council.
43.392.040	Council responsibilities—Annual report.

43.392.010 Findings—Intent. The legislature finds that in order to meet the statewide greenhouse gas emissions limits in RCW 70A.45.020 and 70A.45.050, the state must drastically reduce vehicle greenhouse gas emissions. A critical strategy to meet those goals is transitioning to zero emissions vehicles and this transition requires ongoing purposeful interagency coordination and cooperation. As such, it is the intent of the legislature to create a formal interagency council responsible for coordinating the state's transportation electrification efforts to ensure the state is leveraging state and federal resources to the best extent possible and to ensure zero emissions incentives, infrastructure, and opportunities are available and accessible to all Washingtonians.

The legislature further finds that in order to meet the statewide greenhouse gas emissions limits in the transportation sector of the economy, more resources must be directed toward achieving zero emissions transportation and transit, while continuing to relieve energy burdens that exist in overburdened communities. [2022 c 182 § 427.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

43.392.020 Target established—Scoping plan. (1) A target is established for the state that all publicly owned and privately owned passenger and light duty vehicles of model year 2030 or later that are sold, purchased, or registered in Washington state be electric vehicles.

(2) On or before December 31, 2023, the interagency electric vehicle coordinating council created in RCW

43.392.030 shall complete a scoping plan for achieving the 2030 target. [2022 c 182 § 415.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

43.392.030 Interagency electric vehicle coordinating council. (1) There is hereby created an interagency electric vehicle coordinating council jointly led by the Washington state department of commerce and the Washington state department of transportation with participation from the following agencies:

- (a) The office of financial management;
- (b) The department of ecology;
- (c) The department of enterprise services;
- (d) The state efficiency and environmental performance office;
- (e) The department of agriculture;
- (f) The department of health;
- (g) The utilities and transportation commission;
- (h) A representative from the office of the superintendent of public instruction knowledgeable on issues pertaining to student transportation; and

(i) Other agencies with key roles in electrifying the transportation sector.

(2) The Washington state department of commerce and Washington state department of transportation shall assign staff in each agency to lead the council's coordination work and provide ongoing reports to the governor and legislature including, but not limited to, the transportation, energy, economic development, and other appropriate legislative committees. [2022 c 182 § 428.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

43.392.040 Council responsibilities—Annual report.

(1) Interagency electric vehicle coordinating council responsibilities include, but are not limited to:

(a) Development of a statewide transportation electrification strategy to ensure market and infrastructure readiness for all new vehicle sales;

(b) Identification of all electric vehicle infrastructure grant-related funding to include existing and future opportunities, including state, federal, and other funds;

(c) Coordination of grant funding criteria across agency grant programs to most efficiently distribute state and federal electric vehicle-related funding in a manner that is most beneficial to the state, advances best practices, and recommends additional criteria that could be useful in advancing transportation electrification;

(d) Development of a robust public and private outreach plan that includes engaging with:

(i) Community organizers and the environmental justice council to develop community-driven programs to address zero emissions transportation needs and priorities in overburdened communities; and

(ii) Local governments to explore procurement opportunities and work with local government and community programs to support electrification;

(e) Creation of an industry electric vehicle advisory committee; and

(f) Ensuring the statewide transportation electrification strategy, grant distribution, programs, and activities associated with advancing transportation electrification benefit vulnerable and overburdened communities.

(2) The council shall provide an annual report to the appropriate committees of the legislature summarizing electric vehicle implementation progress, gaps, and resource needs. [2022 c 182 § 429.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Chapter 43.950 RCW CONSTRUCTION

Sections

43.950.010	Continuation of existing law.
43.950.020	Title, chapter, section headings not part of law.
43.950.030	Invalidity of part of title not to affect remainder.
43.950.040	Repeals and saving.

43.950.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1965 reenactment of this title shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment. [1965 c 8 § 43.198.010. Formerly RCW 43.198.010.]

43.950.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1965 c 8 § 43.198.020. Formerly RCW 43.198.020.]

43.950.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1965 c 8 § 43.198.030. Formerly RCW 43.198.030.]

43.950.040 Repeals and saving. See 1965 c 8 s 43.198.040. Formerly RCW 43.198.040.

